

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE ACTIVITY AND STATUS REPORT
January 1, 2010 - November 30, 2010**

CBA Agenda Item X.A.
January 27-28, 2011

[illegible]

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE ACTIVITY AND STATUS REPORT
January 1, 2010 - November 30, 2010**

[illegible]

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE AGING REPORT
AS OF NOVEMBER 30, 2010**

CBA Agenda Item X.B.
January 27-28, 2011

INVESTIGATIONS AGING	< 6 mos	6-12mos	12-18 mos	18-24 mos	> 24 mos	TOTAL
All Cases	123	79	36	12 ¹	8 ²	258
Average Age of Pending Investigation						239 days

¹ The twelve cases that are from 18-24 months are the result of the following:

Of the 12 cases listed as 18-24 months, 10 cases were reassignments from ICPAs who retired prior to completing the case, thus requiring a newly hired investigator to become familiar with the investigative process and the case.

Two of the cases are closed and will be removed by the next reporting cycle.

² The eight cases that are greater than 24 months are the result of the following:

One case is the result of an on-going investigation which has required the need for an outside consultant due to the complexity of the matter. The case has been referred to the AG's office and is awaiting a DAG assignment. Once assigned, investigative hearings will be scheduled.

A second case was opened, closed and then re-opened based on new information. The matter then required the issuance of a subpoena and is currently an on-going investigation.

A third case resulted in two separate IH's and is moving forward to the AG's office for the filing of an Accusation.

Of the remaining five cases, one is being readied for closure and will be removed by the next reporting cycle. The last four cases were all reassignments from ICPAs who retired prior to completing the investigation, thus requiring a newly hired investigator to become familiar with the investigative process and the case.

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE AGING REPORT
AS OF NOVEMBER 30, 2010**

CASES ASSIGNED TO AG'S OFFICE	< 6 mos	6-12mos	12-18 mos	18-24 mos	> 24 mos	TOTAL	Licensed Total	Unlicensed Total
Pre Accusation	10	3			1 ¹	14	12	2
Post Accusation	8	7	4	2 ²		21	20	1
Petition for Reinstatement	2	2				4		4
TOTAL AG CASES	20	12	4	2	1	39	32	7

The one case identified as (Pre) Accusation > 24 months is the result of the following:

¹One of the cases identified as Pre Accusation is an on-going investigation requiring the need for outside consultants to assist due to the complexity of the matter. An investigative hearing was held in December and the case will progress to the filing of an accusation.

² The two cases (Post) that are between 18 - 24 months are the result of the following:

One of the cases identified as Post Accusation is the result of a Default Decision, a subsequent Petition for Reconsideration and a hearing held in December. The matter is scheduled for consideration at "today's" meeting.

A second case has been concluded and will be removed by the next reporting cycle.

**CALIFORNIA BOARD OF ACCOUNTANCY
CITATION ACTIVITY
FOR THE PERIOD 7/1/10 THRU 11/30/10**

CBA Agenda Item X.C.
January 27-28, 2011

VIOLATION ANALYSIS

RULE	AVERAGE FINE AMOUNT	TOTAL FINES ISSUED	TOTAL \$FINES ASSESSED	APPEALS RECEIVED
ACCOUNTANCY RULES AND REGULATIONS				
3				
52				
54.1				
57				
58				
63				
67				
68				
80				
87				
87(a)				
87(b)				
87 (c)				
87(d)				
87.6				
87.7				
89				
89(b)				
89(c)				
89.1				
90				
BUSINESS AND PROFESSIONS CODE SECTION				
5037				
5050				
5055				
5056				
5058				
5060				
5061				
5062				
5063				
5072				
5079				
5100				
5100C				
5100G				
5100H				
5100I				
5100K				
5151				
5152				
5154				
5156				
TOTALS				

RECONCILIATION OF FINES OUTSTANDING 7/1/10 - 11/30/10

Balance at 7/1/10	\$42,182
Fines Assessed 7/1/10 - 11/30/10	\$2,000
Previous Paid Off - Reinstated - Revoked License	\$0
Appeal Adjustments 7/1/10 - 11/30/10	
Withdrawn Violations (0 violations, 0 cases)	\$0
Modified Violations ()	\$0
Remain As Issued Violations ()	\$0
Uncollectible Violations (0 violations, 0 cases)	\$0
Collections 7/1/10 - 11/30/10 ¹	(\$2,225)
Fines Outstanding at 11/30/10	\$41,957

1 Adjustment made to collections from previous report. Monies posted to C/F should have been posted to disciplinary matter instead. Reversal of \$455. from collections.

COMPOSITION OF FINES OUTSTANDING

Fine Added to License Renew Fee/B & P 125.9 (27 violations, 16 cases)	\$34,450
AG Referral (Citation Appealed/Non Compliance) (0 violations, 0 case)	\$0
Issued/Pending Receipt of Fine (6 violations, 3 cases)	\$5,000
Installment Payments (3 violation(s), 2 cases)	\$2,507
Appeal Request Pending Review (0 violations, 0 case)	\$0
Stipulation/Decision Pending Compliance (0)	\$0
Total Fines Outstanding at 11/30/10	\$41,957

**CALIFORNIA BOARD OF ACCOUNTANCY
REPORTABLE EVENTS RECEIVED
07/01/10 – 12/31/10**

Felony Conviction – 5063(a)(1)(A)	1
Criminal Conviction – 5063(a)(1)(B)	1
Criminal Conviction – 5063(a)(1)(C)	0
Cancellation, Revocation, Suspension of Right to Practice by Other State or Foreign Country – 5063(a)(2)	3
Cancellation, Revocation, Suspension of Right to Practice before any governmental body or agency – 5063(a)(3)	0
Restatements – 5063(b)(1) <ul style="list-style-type: none"> • Governmental – 34 • Non Profit – 12 • SEC Registrant – 15 	61
Civil Action Settlement – 5063(b)(2)	9
Civil Action Arbitration Award – 5063(b)(2)	0
SEC Investigation – 5063(b)(3)	0
Wells Submission – 5063(b)(4)	2
PCAOB Investigation – 5063(b)(5)	3
Civil Action Judgement – 5063(c)(1)(2)(3)(4)(5)	0
Reporting by Courts – 5063.1	0
Reporting by Insurers – 5063.2	16
TOTAL REPORTABLE EVENTS RECEIVED 07/01/10 TO 12/31/10	96

Memorandum

CBA AGENDA ITEM XI.A.
January 27-28, 2011

To : Patti Bowers, Executive Officer
CBA Members

Date : January 18, 2011

Telephone : (916) 561-1731

Facsimile : (916) 263-3673

E-mail : rixta@cba.ca.gov

From : Rafael Ixta
Chief, Enforcement Division

Subject : **SCHMIDT, KATHLEEN M.**
PETITION FOR REINSTATEMENT OF REVOKED CERTIFICATE
San Diego, California
Certificate No. CPA 38260

The above-referenced Petition for Reinstatement of Revoked Certificate has been scheduled for hearing on January 28, 2011 at the January 27-28, 2011 California Board of Accountancy (CBA) meeting.

The Office of Administrative Hearings has assigned an Administrative Law Judge to preside at the hearing, as well as a court reporter to capture a record of the discussion.

In addition, the Attorney General's Office has assigned a Deputy Attorney General Antoinette B. Cincotta to appear at the hearing.

The following documents are attached for your review.

1. Petition for Reinstatement of Revoked Certificate.
2. Accusation No. AC-1999-21, dated December 30, 1999.
3. Default Decision No. AC-1999-21, effective May 4, 2000.
4. Certification of License History.

REPRESENTATION

Ms. Schmidt will attend the petition hearing without legal counsel.

CAUSE FOR DISCIPLINE

Ms. Schmidt was the sole shareholder and operator of Schmidt Accountancy Corporation from 1983 to the date of revocation of her CPA Certificate in 2000. In 1993, Ms. Schmidt and her corporation were engaged to perform accounting and tax services for a client and to finalize the dissolution of the client's corporation. Ms. Schmidt did not complete the dissolution.

Ms. Schmidt failed to notify the CBA of at least two address changes affecting her and her accountancy corporation.

Ms. Schmidt failed to comply with the CBA citation orders issued on September 14, 1998 to her for engaging in the practice of public accountancy with an expired license and to her accountancy corporation for engaging in the practice of public accountancy without a valid permit and engaging in the practice of public accountancy under a firm name which included plural terms by a corporation with only one shareholder. The citations contained administrative fines totaling \$2,500 and orders of abatement and correction.

CODE VIOLATIONS

California Business and Professions Code, Division 3, Chapter 1, Sections 5050, 5100(c), (h), and 5154.

California Code of Regulations, Title 16, Division 1, Sections 3, 52, 66.1, and 95.4.

ADDITIONAL INFORMATION FOR BOARD CONSIDERATION

- **Citations and Fines**

The administrative fines assessed in the citations issued to Ms. Schmidt and her corporation on September 14, 1998 remain outstanding.

- **Reimbursement of Investigation and Prosecution Costs**

The CBA requested reimbursement of investigation and prosecution costs in Accusation No. AC-1999-21; however, costs were not ordered in Default Decision No. AC-1999-21. The investigation and prosecution costs incurred by the CBA in Case No. AC-1999-21 totaled \$7,085.23. Ms. Schmidt stated in her petition that upon reinstatement of her certificate, she will reimburse the CBA for all reasonable investigation and prosecution costs.

- **Continuing Professional Education**

Ms. Schmidt submitted evidence of completion of 104 hours of continuing professional education completed during the period June 2008 through July 2010 in the following areas.

- 8 hours in ethics.
- 8 hours in accounting and auditing.
- 88 hours in tax.

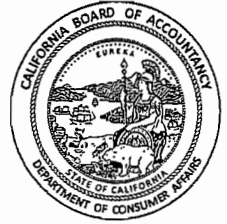
- **Letters of Recommendation**

Ms. Schmidt submitted three letters of recommendation (**Attachments KMS-PET 040-042**).

RI:mls



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



TO WHOM IT MAY CONCERN:

The undersigned shares in the custody and control of the files and records of this agency and hereby certifies that the attached document is a true and correct copy of the original or the original copy of the Petition for Reinstatement of Revoked Certificate, dated October 27, 2010, from KATHLEEN M. SCHMIDT contained in the files of this office, and said documents were received in the normal course of business.

A handwritten signature in cursive script that reads 'Paul Fisher'. The signature is written in dark ink and is positioned above a horizontal line.

Paul Fisher
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

December 14, 2010

KMS-PET001



RECEIVED

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



CALIFORNIA BOARD OF ACCOUNTANCY

PETITION FORM

(See Instructions)

Please type or print legibly

NAME <u>Kathleen M. Schmidt</u>	PETITION FOR <input checked="" type="checkbox"/> Reinstatement of Revoked Certificate <input type="checkbox"/> Reinstatement of Surrendered Certificate
Email	
Residence Address	
Telephone No. <u>San Diego, CA 92108</u>	
Business Address <u>1011 Camino de Rio South, Suite 410</u>	
Telephone No. <u>San Diego, CA 92108</u> <u>(619) 543-9702</u>	

ACADEMIC DEGREES:	<u>Bachelor of Science</u>		
Name of School:	<u>S.D. State University</u>		
Date Degree Granted:	<u>June, 1980</u>		

California CPA License No. <u>38260</u>	Date Issued: <u>July 29, 1983</u>
--	--------------------------------------

Other State/Country License Information: N/A

State/Country	License No.	Date Issued:	Current Status
State/Country	License No.	Date Issued:	Current Status

EFFECTIVE DATE OF REVOCATION/SUSPENSION: <u>May 4, 2000</u>
REASON FOR DISCIPLINE: <u>Engaged to perform accounting and tax services for a client and to finalize the dissolution of the client's corporation. Did not complete the dissolution. Did not notify Board of address changes. Did not comply with citation orders for engaging in the practice of public accountancy with an expired CPA license.</u>

KMS-PET002

Practice Prior to Order of Revocation/Suspension (List only immediate ten-year period)

Dates	Type of Practice	Location
1983 to 2000	Public Accounting	San Diego, CA

List your occupation and activities since the date of the Order:

Dates	Occupation	Duties/Activities	Location
Jan., 2008 to Present	Staff Accountant	Tax Preparation	San Diego, CA

1. Since the effective date of the Order, have you been involved in any of the following situations?

a) Charged with or convicted of a violation of Federal or State law (minor traffic violations are excepted)?

☐ YES ☒ NO

b) Has another governmental or regulatory body or agency disciplined or sanctioned you since the date of the Order?

☐ YES ☒ NO

c) Are you now on probation or parole to the courts for any criminal violation(s) in this or any other state?

☐ YES ☒ NO

IF YOU ANSWER YES TO ANY OF THE ABOVE, PLEASE ATTACH A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

2. Based on the Order of Revocation, prior to or upon reinstatement of a revoked certificate, the petitioner will generally be required to reimburse the California Board of Accountancy (CBA) for all reasonable costs of investigation and prosecution of the violations for which action was taken against the petitioner's license. Have you reimbursed the CBA for these costs?

☐ YES ☒ NO

If NO, please explain why on Page 5. If you believe that payment of these costs would cause an unreasonable financial hardship that could not be remedied through a payment plan, please explain and provide documentation to support your claim of financial hardship.

KMS-PET003

3. As part of the petition process, the CBA evaluates the petitioner's compliance with any ordered or voluntary restitution to harmed clients/consumers. Have you made restitution to any parties financially harmed by the violations for which action was taken against your license?

☐ YES ☒ NO

If YES, please provide proof of payment. If NO, please explain on Page 5.

4. Continuing Professional Education

Have you completed any post-graduate or refresher courses, seminars, workshops, etc., since the date of the Order?

☒ YES ☐ NO

If YES, please complete the enclosed Continuing Education Reporting Worksheet and enclose copies of course completion certificates.

5. Have you published any literature since the date of the Order?

☐ YES ☒ NO

If YES, please provide publication name, date article published and title of article.

Publication Name	Date Published	Article Title

6. Do you believe you are ready to take an examination if one should be imposed upon you?

☒ YES ☐ NO

7. Explain why you believe your petition should be granted.

The complaint by RMC Acoustics is not true and the other reasons for discipline were not intentional. I have been working for a public accounting firm for the last three years, and have realized how important my CPA license was, and is. I will do everything necessary, as prescribed by the Board, to reinstate my license. Your consideration is most appreciated.

8. If the CBA grants your Petition, where will you practice and what type of services will you perform? If you will not be performing public accounting services, what type of occupation will you be involved in?

I hope to continue as a staff accountant in the tax department for
the firm I currently work for, Hosaka, Nagai & company.

9. Do you plan to attend the hearing before the CBA Board in the matter of this Petition?

☒ YES ☐ NO

10. Do you plan to have legal counsel represent you at the hearing before the CBA Board in the matter of this Petition?

☐ YES ☒ NO

Legal Counsel Name _____

Firm Name _____

Address _____

Telephone No. _____

I herewith submit this Petition, as required by the California State Board of Accountancy, and declare under penalty of perjury that I have read the foregoing petition in its entirety and know its contents, and that all statements are true in every respect, and I understand that misstatements or omissions of material fact may be cause for denial of the petition.

M. Shumway

(Signature)

10/27/10

(Date)

Please return completed form to:
California Board of Accountancy
Enforcement Division
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Attn: Michele Santaga, Enforcement Analyst

KMS-PET005

EXPLANATION

Question 2. Upon reinstatement of my certificate, I will reimburse the California Board of Accountancy for all reasonable costs of investigation and prosecution of the violations for which action was taken.

Question 3. I did not retain payment for services to SB (RMC Acoustics) for services that I failed to render. I have never billed a client before the work I was engaged to perform was completed.

**CALIFORNIA BOARD OF ACCOUNTANCY
CONTINUING EDUCATION REPORTING WORKSHEET**

NAME Kathleen M. Schmidt

1	2	3	4	5	6	7
COURSE TITLE (For clarity, please avoid abbreviations)	SUBJECT CODE	(v) CLAIMED AS GOV'T CE	DATE(S) COMPLETED (Course must be completed to list)	HOURS CLAIMED	NAME OF PROVIDER	METHOD OF PRESENTATION
Board-approved Regulatory Review course: COURSE TITLE: <u>Ethics, Taxes & Financial Reporting</u> APPROVAL NUMBER: <u>002-019707</u>	R		7/16/10	8	CalCPA Education Foundation	L
Mastering Quickbooks Class	T		6/18-6/19/08	14	Real World Training	L
2008 Individual Tax	T		12/17-12/18/08	16	Thomson Tax & Accounting	L
2008 Fall Seminar	T		1/16/09	8	Spidell Publishing, Inc	L
Everything You Need to Know About Trusts	T		7/01/09	8	CalCPA Education Foundation	L
Accounting and Auditing Updates	A		7/08/09	8	CalCPA Education Foundation	L
2009 Individual Tax	T		12/7-12/8/09	16	Thomson Tax & Accounting	L
2009 Fall Seminar	T		1/22/10	8	Spidell Publishing, Inc	L
LLC's New Developments & Reporting Issues	T		6/17/10	2	CalCPA	L
S Corps: A Complete Guide to Planning & Compliance	T		7/12/10	8	CalCPA Education Foundation	L
Form 1065 Schedule K-1 Analysis	T		7/14/10	8	CalCPA Education Foundation	L

HOURS CLAIMED FOR EACH SUBJECT AREA	
REGULATORY REVIEW (technical)	8
GOVERNMENT CE (technical)	
A&A CE (technical)	8
FRAUD CE (technical)	
ETHICS (technical)	
OTHER TECHNICAL CE	88
NON-TECHNICAL CE	
TOTAL HOURS CLAIMED:	104

KMS-PET007

If additional space is needed, this form may be reproduced.



CalCPA EDUCATION
FOUNDATION

Ethics, Taxes and Financial Reporting

Event Date : 07/16/10, Event Location : Paradise Point Resort San Diego

Hours of recommended CPE credit: 8.0 *

Event Number : 4101300C

(Print Name) Kathleen M. Schmidt

(Print Address) .

Signature: KM

Chief Executive Officer

This course is approved for the following categories of credit: Ethics : 8.0

Field of Study : Regulatory Ethics

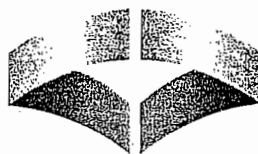
The Education Foundation is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org
In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour. Sponsor number 104822

* The California Board of Accountancy grants CPE credit only for the amount of time spent in class. Education Foundation CPE records for individuals who arrive late or leave early will reflect actual hours attended.

Instructional method: Group-live

Approval Code : Ethics {002L019707}

1800 Gateway Drive, Suite 200, San Mateo, CA 94404
Phone (800) 922-5272 - Fax (888) 868-8558



Real World Training

MASTERING QUICKBOOKS CLASS

This certifies that

KATHY SCHMIDT

has completed the Mastering QuickBooks Class
and has earned 14 CPE credits

SAN DIEGO 6/18-6/19/08
City/Date

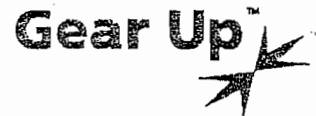
[Signature]
Sponsor
David J. O'Brien, CPA
Texas Sponsor ID #07200, NASBA Sponsor ID #105567

KMS-PET009

In accordance with the National Registry of CPE Sponsors, CPE credits have been granted based on a 50 minute hour.
Field of Study: Specialized Knowledge and Applications Delivery Method: Group-Live

GEAR UP Certificate of Completion

This is to certify that



Kathy Schmidt

(print your name)

has successfully completed the following Gear Up Group-Live Program:

1040 Andrius Jay

and is entitled to receive 16 hours of Continuing Professional Education Credits. See below for specific applicable field(s) of study.

Date: Nov 17-18, 2008

Location: San Diego, CA

K. Schmidt

Attendee Signature

By signing, I certify under penalty of perjury that I attended and qualify for the hours claimed.

NASBA National Registry of
CPE Sponsor # 103024

CPE Sponsor Numbers

California #016S-01-9810

New Jersey #20CE00206700 (CE2067)

New York #00505

Texas #000941

For CTEC Registered Tax Preparer Only,
CTEC Course #1013-CE- 0116

___ Federal Hours Earned

___ California Hours

J. McLeary
Gear Up Administrator

This attendee is entitled to receive continuing Professional Education Credits based on the following field(s) of study for this seminar:

(In accordance with the standards of the National Registry of CPE sponsors, CPE credits have been granted based on a 50-minute hour)

NASBA SUBJECT AREAS	NEW JERSEY	NEW YORK
Accounting	TECHNICAL SUBJECTS	Accounting
Accounting (governmental)	Accounting	Auditing
Auditing	Auditing	Taxation <u>16</u>
Auditing (governmental)	Business Law	Advisory Services
Administrative Practice	Computer Science	Specialized Knowledge and Applications Related to Specialized industries
Social Environment of Business	Economics	Ethics
Behavioral Ethics	Finance	TOTAL CPE CREDITS <u>16</u>
Regulatory Ethics	Management Advisory Services	
Business Management and Organization	Mathematics and Statistics	
Finance	SEC Practice	
Management Advisory Services	Taxation <u>16</u>	
Marketing	Professional Ethics	
Business Law	Specialized Areas of Industry	
Communications	ADDITIONAL QUALIFYING SUBJECTS	
Personal Development	Personal Development	
Personnel/HR	Practice Management	
Computer Science	TOTAL CPE CREDITS <u>16</u>	
Economics		
Mathematics		
Production		
Specialized Knowledge and Application		
Statistics		
Taxes <u>16</u>		
Other:		
TOTAL CPE CREDITS <u>16</u>		

KMS-PET010

Gear Up
PO Box 966
Fort Worth TX 76101-0966
1-800-231-1860
www.trainingcpe.thomson.com/gearup

THOMSON
★
TAX & ACCOUNTING

ORIGINAL TO ATTENDEE / COPY TO GEAR UP

Spidell Publishing Inc. **Certificate of Completion and Attendance**

YOUR NAME (please print) Kathy Schmidt

Location of Course San Diego, CA Date 1-16-09

I am taking this course to fulfill the requirements of:

☒ California Board of Accountancy ☐ California State Bar ☐ CTEC ☐ IRS ☐ CFP Board of Standards

Enrollment, License, Registration, ID Number 38260

Morning Instructor(s) ☒ Steve Honeyman, CPA ☐ Wendy Lieb, EA ☒ Wayne Otchis, CPA ☐ Steve Yukelson, CPA

Afternoon Instructor(s) ☐ Lynn Freer, EA ☒ Steve Honeyman, CPA ☒ Renée Rodda, J.D.

Course Title Spidell's 2008 Fall Seminar Field of Study Taxation

Successful completion of this program qualifies for Continuing Education Credits as follows:

Certified Public Accountant/Practicing Accountant	Enrolled Agent	Certified Financial Planner	Attorney	CTEC
Board of Accountancy <u>8</u> hours	IRS <u> </u> hours	Board of Standards, Inc. <u> </u> hours	MCLE <u> </u> hours Tax Specialization <u> </u> hours	(CPE credit 4 hours federal and 4 hours California) Course # 1019-CE-0225 <u> </u> hours federal Course # 1019-CE-0227 <u> </u> hours California

CPE Hours — This seminar is designed to meet the following requirements:

CPAs, PAs, EAs, CFPs, Morning — 4 hours; Afternoon — 4 hours

CTEC Federal — 4 hours; California — 4 hours

CA Bar, MCLE and

Tax Specialization, Morning — 3.5 hours; Afternoon — 3.25 hours

N. Schmidt

Attendee's Certification of Completion
(Your Signature)

Provider Verification
October 2008

By signing, I certify under penalty of perjury that I attended and qualify for the hours claimed.

Fill out and turn in one copy of this certificate at the registration table before you leave.

Fill out and keep the other copy for your records.

In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted based on a 50-minute hour. • National Registry of CPE Sponsor ID Number: 104931 • Delivery method: Group-
live • IRS Sponsor ID Number: 442 • Minimum Continuing Legal Education (MCLE) Sponsor ID Number: 337 • Attorney's hours are based on a 60-minute hour • CFP Sponsor ID Number: 2651.

Spidell Publishing • P.O. Box 61044 • Anaheim, California 92803-6144 • (714) 776-7850

www.caltax.com • subscriptions@spidell.com

KMS-PET011



Everything You Need To Know About Trusts

Event Date : 07/01/09, Event Location : Hyatt Regency Mission Bay Spa & Marina

Hours of recommended CPE credit: 8.0 *

Event Number : 4091519A

(Print Name) Kathleen M. Schmidt

(Print Address)

Signature: Kathleen W. Philbin

Executive Director

This course is approved for the following categories of credit: MCLE (Min Cont Legal Educ) : 6.5, Estate Plan/Trust : 6.5, Taxation Law : 6.5, CFP-Estate Planning : 8.0

Field of Study : Taxes

The Education Foundation is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org
In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour. Sponsor number 104822

* The California Board of Accountancy grants CPE credit only for the amount of time spent in class. Education Foundation CPE records for individuals who arrive late or leave early will reflect actual hours attended.

Instructional method: Group-live



Accounting and Auditing Update

Event Date : 07/08/09, Event Location : Paradise Point Resort San Diego

Hours of recommended CPE credit: 8.0 *

Event Number : 4091010A

(Print Name) Kathleen M. Schmidt

(Print Address)

Signature: Kathleen M. Schmidt
Executive Director

This course is approved for the following categories of credit: Accounting & Auditing : 8.0

Field of Study : Accounting

The Education Foundation is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org
In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour. Sponsor number 104822

* The California Board of Accountancy grants CPE credit only for the amount of time spent in class. Education Foundation CPE records for individuals who arrive late or leave early will reflect actual hours attended.

Instructional method: Group-live

GEAR UP Certificate of Completion

This is to certify that

Kathleen Schmitt

(print your name)

NASBA National Registry of
CPE Sponsor # 103024

has successfully completed the following Gear Up Group-Live Program:

2009 Gear Up 1040 Individual Tax

CPE Sponsor Numbers

New York #00505

Texas #000941

California Ethics

Live Seminar #010L-01-9806

and is entitled to receive 16 Continuing
Professional Education Credits. See below for specific
applicable field(s) of study.

For CTEC Registered Tax Preparer Only,
CTEC Course #1013-CE- 1/12

16 Federal Hours Earned

California Hours

Date: 12/7/09 - 12/8/09

Location: San Diego, CA

K. Schmitt

Attendee Signature

By signing, I certify under penalty of perjury that I attended
and qualify for the hours claimed.

[Signature]
Gear Up Administrator

This attendee is entitled to receive continuing Professional Education Credits
based on the following field(s) of study for this seminar:

(In accordance with the standards of the National Registry of CPE sponsors, CPE credits have been granted based on a 50-minute hour)

NASBA SUBJECT AREAS	NEW YORK
Accounting	Accounting
Accounting (governmental)	Auditing
Auditing	Taxation
Auditing (governmental)	Advisory Services
Administrative Practice	Specialized Knowledge and Applications Related to Specialized industries
Social Environment of Business	Ethics
Behavioral Ethics	TOTAL CPE CREDITS
Regulatory Ethics	
Business Management and Organization	
Finance	
Management Advisory Services	
Marketing	
Business Law	
Communications	
Personal Development	
Personnel/HR	
Computer Science	
Economics	
Mathematics	
Production	
Specialized Knowledge and Application	
Statistics	
Taxes	<u>16</u>
Other:	
TOTAL CPE CREDITS	<u>16</u>

Gear Up

PO Box 966

Fort Worth TX 76101-0966

1-800-231-1860

www.trainingcpe.thomson.com/gearup

KMS-PET014



THOMSON REUTERS

ORIGINAL TO ATTENDEE COPY TO GEAR UP



Certificate of Completion and Attendance

YOUR NAME (please print) Kathy Schmidt

Location of Course San Diego, CA Date 11/22/10

I am taking this course to fulfill the requirements of:

☒ California Board of Accountancy ☐ California State Bar ☐ CTEC ☐ IRS ☐ CFP Board of Standards

Enrollment, License, Registration, ID Number 38260

Morning Instructor(s) ☒ Steve Honeyman, CPA ☐ Wendy Lieb, EA ☒ Wayne Otchis, CPA ☒ Steve Yukelson, CPA

Afternoon Instructor(s) ☒ Lynn Freer, EA ☐ Steve Honeyman, CPA ☒ Renée Rodda, J.D.

Course Title Spidell's 2009 Fall Seminar Field of Study Taxation

Successful completion of this program qualifies for Continuing Education Credits as follows:

Certified Public Accountant/Practicing Accountant	Enrolled Agent	Certified Financial Planner	Attorney	CTEC
Board of Accountancy 8 hours	IRS hours	Board of Standards, Inc. hours	MCLE hours Tax Specialization hours	(CPE credit 4 hours federal and 4 hours California) Course # 1019-CE-0280 hours federal hours California Course # 1019-CE-0281

CPE Hours — This seminar is designed to meet the following requirements:
CPAs, PAs, EAs, CFPS, Morning — 4 hours; Afternoon — 4 hours
CTEC Federal — 4 hours; California — 4 hours
CA Bar, MCLE and
Tax Specialization Morning — 3.5 hours; Afternoon — 3.25 hours

N. Schmidt

Attendee's Certification of Completion
(Your Signature)

Provider Verification
October 2009

By signing, I certify under penalty of perjury that I attended and qualify for the hours claimed.

**Fill out and turn in one copy of this certificate at the registration table before you leave.
Fill out and keep the other copy for your records.**

In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted based on a 50-minute hour. • National Registry of CPE Sponsor ID Number: 104931 • Delivery method: Group-live • IRS Sponsor I.D. Number: 442 • Minimum Continuing Legal Education (MCLE) Sponsor I.D. Number: 337 • Attorney's hours are based on a 60-minute hour • CFP Sponsor ID Number: 2631.
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www.calfax.com • subscriptions@spidell.com



Headquarters - 1235 Radio Road, Redwood City, CA 94065
1-800-9CALCPA - www.calcpa.org

CONTINUING PROFESSIONAL EDUCATION Certificate of Completion

The following person has completed Continuing Professional Education (CPE) sponsored by the California Society of CPAs. If you are claiming this course for any specific CPE requirement other than the standard 80 hour rule to comply with California Board of Accountancy License Renewal (A&A, GA&A, FRAUD, MCLE, etc.), indicate it on the certificate in the space provided below.

The California Board of Accountancy grants CPE credit for only the amount of time spent in class. The California Society of CPAs records, for individuals who arrive late or leave early, will reflect actual hours attended.

This program qualifies for **2.0** Hour(s) of CPE Credit.

Field of Study: **Taxes**

Fulfilling Other CPE Requirement:

COURSE TITLE: **SD Taxation Committee: CA LLCs New Developments & Reporting Issues**

COURSE DATE: **06/17/10**

COURSE LOCATION: **Handlery Hotel & Resort
950 Hotel Cir N
San Diego, CA 92108-2902**

SPONSORING **San Diego**

CALCPA GROUP:

Complete the information below and retain certificate for your files.

ATTENDEE NAME **Kathy Schmidt**
AND ADDRESS: **Hosaka Nagel & Co PC
1011 Camino del Rio S Ste 410
San Diego, CA 92108-3573**

Reproduction of this certificate is not permitted. Corresponding documentation of CPE attendance is kept at the Redwood City offices of the California Society of CPAs. A complete record of CPE taken from the California Society of CPAs may be viewed at www.educationfoundation.org/myaccount or by contacting Customer Service at 1-800-9CALCPA xOption 1.

The California Society of CPAs (through the Education Foundation) is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org. In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour.

Sponsor number 104822, Instructional Method: Group-live.

APPROVAL CODE:

KMS-PET016

Loretta Doon, Chief Executive Officer



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



December 14, 2010

STATE OF CALIFORNIA)
) ss.
DEPARTMENT OF CONSUMER AFFAIRS)

CERTIFICATION OF LICENSE HISTORY

I, Paul Fisher, hereby certify that I am the Supervising Investigative CPA of the Enforcement Division of the California Board of Accountancy, Department of Consumer Affairs, State of California, and in that capacity, share in maintaining control and custody of files and records dealing with and pertaining to the duties and responsibilities of said Board. On December 14, 2010, I made or caused to be made a diligent search of the aforesaid files and records concerning the certification and license history of KATHLEEN M. SCHMIDT. I determined that the official records prepared by various persons employed by the California Board of Accountancy, acting within the scope of their duties, show the following license history of KATHLEEN M. SCHMIDT.

1. Certificate number 38260 (Certified Public Accountant) was issued to KATHLEEN M. SCHMIDT on July 29, 1983, by the state of California.
2. The certificate was subject to renewal every two years pursuant to California Business and Professions Code Section 5070.5. The applicable renewal period for this certificate began February 1 of odd-numbered years.
3. The Board of Accountancy's licensing records were transferred to the Department of Consumer Affairs' centralized computer system in March 1989. As a result, the underlying documentation related to license history prior to that date is unavailable. The computerized records reflect that in March 1989 the license was in a renewed status with continuing education ("active") and remained in that status through January 31, 1991.
4. The certificate was renewed for the period February 1, 1991 through January 31, 1993, with continuing education ("active").
5. The certificate was renewed for the period February 1, 1993 through January 31, 1995, with continuing education ("active").
6. The certificate was expired and not valid during the period February 1, 1995 through February 22, 1995, for the following reasons:

KMS-PET038

- a) the renewal fee required by California Business and Professions Code Section 5070.5 was not paid; and
 - b) declaration of compliance with continuing education requirements was not submitted.
7. Effective February 23, 1995, the certificate was renewed through January 31, 1997 upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").
8. The certificate expired on February 1, 1997 and was placed in a "delinquent" status.
9. Charges of unprofessional conduct were filed against KATHLEEN M. SCHMIDT by the California Board of Accountancy in Accusation No. AC-1999-21, dated December 30, 1999. On May 4, 2000, the California Board of Accountancy's Decision in the matter of Accusation No. AC-1999-21 became effective, and Certified Public Accountant Certificate No. 38260 issued to KATHLEEN M. SCHMIDT was revoked.
10. The last address of record for KATHLEEN M. SCHMIDT, Certificate number CPA 38260, as appearing in the records of the California Board of Accountancy, in conformance with California Code of Regulations, Title 16, Chapter 1, Section 3, is:

KATHLEEN M. SCHMIDT
5785 Oberlin Drive, Suite 100
San Diego, CA 92121

11. The California Board of Accountancy has not adopted a regulation authorizing intervention.

This certification is made pursuant to Evidence Code Section 1280 and the authority conferred upon me by the California Board of Accountancy.



PAUL FISHER
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

December 14, 2010

KMS-PET039



S Corps: A Complete Guide to Planning and Compliance

Event Date : 07/12/10, Event Location : Paradise Point Resort San Diego

Hours of recommended CPE credit: 8.0 *

Event Number : 4101442A

(Print Name) Kathleen M. Schmidt

(Print Address)

Signature: *Kathleen M. Schmidt*

Chief Executive Officer

This course is approved for the following categories of credit: CTEC Federal Hours : 8.0, Enrolled Agents : 8.0, MCLE (Min Cont Legal Educ) : 6.5, Taxation Law : 6.5

Field of Study : Taxes

The Education Foundation is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org
In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour. Sponsor number 104822

* The California Board of Accountancy grants CPE credit only for the amount of time spent in class. Education Foundation CPE records for individuals who arrive late or leave early will reflect actual hours attended.

Instructional method: Group-live

Approval Code : CTEC Federal Hours {2099CE0117} Enrolled Agents {86}

1800 Gateway Drive, Suite 200, San Mateo, CA 94404
Phone (800) 922-5272 - Fax (888) 868-8558

KMS-PET017



Form 1065 Schedule K-1 Analysis-- Basis Calculations and Distributions for Partnerships & LLCs

Event Date : 07/14/10, Event Location : Paradise Point Resort San Diego

Hours of recommended CPE credit: 8.0 *

Event Number : 4101613B

(Print Name) Kathleen Schmidt

(Print Address)

Signature:

A handwritten signature in dark ink, appearing to read "Kathleen Schmidt".

Chief Executive Officer

KMS-PET018

This course is approved for the following categories of credit: CTEC Federal Hours : 8.0, Enrolled Agents : 8.0, MCLE (Min Cont Legal Educ) : 6.5

Field of Study : Taxes

The Education Foundation is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org
In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted on the 50-minute hour. Sponsor number 104822

* The California Board of Accountancy grants CPE credit only for the amount of time spent in class. Education Foundation CPE records for individuals who arrive late or leave early will reflect actual hours attended.

Instructional method: Group-live

Approval Code : CTEC Federal Hours {2099CE0169} Enrolled Agents {86}

1800 Gateway Drive, Suite 200, San Mateo, CA 94404
Phone (800) 922-5272 - Fax (888) 868-8558

Kiwanis

International

Serving the Children of the World™

THE KIWANIS CLUB OF

Scripps-Mira Mesa

This is to certify that

Active Member
Kathy Schmidt

is elected to active membership in this club and thus accorded the fellowship, privileges and responsibilities thereunto appertaining.

President

Marcelle M Rhinesmice

Secretary

[Signature]

Date 10-06-10



KMS-PET019

December 8, 2010

California State Board of Accountancy
State of California
Sacramento, California

Re: Kathleen M. Schmidt

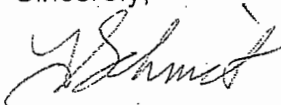
I felt honored when my sister Kathy Schmidt asked me to write a reference letter for her. Although Kathy is only three years older than me, she has had considerable influence on my life. As a mentor, Kathy steered me into studying accounting. In fact, my first accounting job was working for her. While working for Kathy I gained invaluable accounting experience. By watching Kathy, I also learned what it means to be a true professional. For many years I observed her working countless hours building her business by diligently meeting the needs of each and every one of her clients.

In addition to being a dedicated accounting professional, Kathy is highly committed to her family. After our mother passed in 2000, our father depended on Kathy more than ever to assist with the care of our brother Steve. Handicapped from a head injury over 25 years ago; Steve is incapable of caring for himself. When our father unexpectedly died in 2006, Kathy took it upon herself to ensure that Steve's needs were provided for.

One of the most important yet heart wrenching tasks Kathy was faced with was finding an extended living facility for Steve. With a lot of time and effort Kathy was successful in finding good care for him. Because of various circumstances, Steve has had to be moved several times. Again, in each instance, Kathy spent time and energy to find the appropriate environment for him. To this day, Kathy continues to manage Steve's affairs and serves as his primary advocate.

I could continue with descriptions of Kathy's many other good qualities - her generosity, her intelligence, and her integrity to name three. Instead I would simply like to say how much I think of Kathy and how strongly I feel that her CPA Certificate should be reinstated.

Sincerely,



Theresa Schmidt

San Diego, CA 92126

KMS-PET040



ROY T. HOSAKA, C.P.A.
JAMES C. NAGEL, C.P.A.

MEMBER
CALIFORNIA SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

November 19, 2010

California State Board of Accountancy
State of California
Sacramento, California

Re: Kathleen M. Schmidt

Kathy has been employed with our firm since July of 2007 and has been a consistently good and dependable employee. Her knowledge and experience in the area of income taxes and accounting has been extremely beneficial to our firm. In addition, clients that our firm has assigned to Kathy, whom she has had to work with directly, have commented on how responsive she has been with their needs, both in the area of income taxes and accounting services.

If you should require further information on Kathy, please do not hesitate to call me.

Sincerely,

Roy T. Hosaka, CPA
President
HOSAKA, NAGEL & COMPANY, APC

KMS-PET041



MEMBER
CALIFORNIA SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

ROY T. HOSAKA, C.P.A.
JAMES C. NAGEL, C.P.A.

November 29, 2010

California State Board of Accountancy
State of California
Sacramento, California

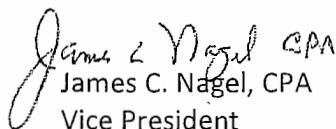
Re: Kathleen M. Schmidt

To Whom It May Concern:

Kathleen Schmidt has been employed by our firm since July 2007. Her position with us is a staff accountant with a majority of her time spent in income taxes (individuals, all types of business entities) and accounting. Because of her knowledge and experience in taxes, she is assigned the most complex jobs and completes them accurately and within budget with little or no supervision. She is well liked by the clients that she works directly with and by her co-workers. In the time that she has been employed by our firm she has been a very good worker, dependable, and is considered a valuable asset to our firm.

If you should have any questions, please feel free to call me.

Sincerely,


James C. Nagel, CPA
Vice President

HOSAKA, NAGEL & COMPANY, APC

KMS-PET042



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



TO WHOM IT MAY CONCERN:

The undersigned shares in the custody and control of the files and records of this agency and hereby certifies that the attached documents are a true and correct copy of the originals or the original copies of the following pertaining to KATHLEEN M. SCHMIDT contained in the files of this office, and said documents were received in the normal course of business.

- Accusation No. AC-1999-21, dated December 30, 1999.
- Default Decision No. AC-1999-21, effective May 4, 2000.

A handwritten signature in cursive script that reads 'Paul Fisher'. The signature is written in dark ink and is positioned above a horizontal line.

Paul Fisher
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

December 14, 2010

KMS-PET020

1 BILL LOCKYER, Attorney General
of the State of California
2 SHERRY LEDAKIS,
Deputy Attorney General
3 State Bar No. 131767
110 West A St., Suite 1100
4 San Diego, CA 92101
Telephone: (619) 645-2078
5 Attorneys for Complainant
6
7

8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against:

Case No. AC-1999-21

12 KATHLEEN M. SCHMIDT
5785 Oberlin Drive, Ste. 100
13 San Diego, CA 92121

OAH No.

14 5703 Oberlin Drive, Ste. 105
San Diego, CA 92121

ACCUSATION

15 8015 Silverton Avenue
16 San Diego, CA 92126

17 CPA Certificate No. 38260

18 SCHMIDT ACCOUNTANCY
CORPORATION

19 5785 Oberlin Dr., Ste. 100
San Diego, CA 92121

20 5703 Oberlin Dr., Ste. 105
21 San Diego, CA 92121

22 8015 Silverton Avenue
San Diego, CA 92126

23 Certificate No. COR 2449,
24

Respondents.
25
26

27 ///

1 The Complainant, Carol Sigmann, as causes for disciplinary action alleges as
2 follows:

3 PARTIES

4 1. The Complainant, Carol Sigmann is the Executive Officer of the California
5 Board of Accountancy (hereinafter "the Board") and makes and files this accusation solely in her
6 official capacity.

7 2. Kathleen M. Schmidt (hereinafter "respondent Schmidt") is the holder of an
8 expired Certified Public Accountant license in the state of California. She is the sole owner,
9 shareholder and operator of Schmidt Accountancy Corporation. Respondent Schmidt's current
10 address on file with the Board is 5785 Oberlin Drive, Ste. 100, San Diego, CA 92121.

11 3. Schmidt Accountancy Corporation ("respondent corporation") has been owned
12 and operated by respondent since 1983. The current address on file with the Board is 5785
13 Oberlin Drive, Ste. 100, San Diego, CA 92121.

14 LICENSE HISTORY

15 4. On July 29, 1983, the Board issued to respondent Schmidt Certificate No.
16 38260 to practice accountancy in the state of California as a Certified Public Accountant (CPA)
17 pursuant to the Accountancy Act contained in Division 3, Chapter 1, section 5000 *et seq.* of the
18 California Business and Professions Code. Until February 1, 1997, respondent Schmidt's CPA
19 certificate was in full force and effect. Said certificate expired on February 1, 1997, and has not
20 been renewed.

21 5. On September 6, 1983, the Board issued respondent Schmidt Accountancy
22 Corporation Certificate of Registration No. COR 2449 pursuant to Business and Professions
23 Code Section 5150. Until June 30, 1998, respondent corporation's certificate was in full force
24 and effect. Said certificate expired on June 30, 1998, and has not been renewed.

25 ///

26 ///

27 ///

JURISDICTION

6. This accusation refers to the following statutes of Division 3, Chapter 1, of the California Business and Professions Code ("Code"):

A. Code Section 5100 provides in part as follows:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of any such permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

"..."

"(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

"..."

"(f) Willful violation of any provision of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

"..."

"(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind ...

"..."

B. Code Section 5035 provides as follows:

"Person" includes individual, partnership, firm, association, limited liability company, or corporation, unless otherwise provided.

C. Code Section 5050 provides in part as follows:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; ..."

///

///

1 D. Section 5070.6 provides in part as follows:

2 "Except as otherwise provided in this chapter, an expired permit may be renewed
3 at any time within five years after its expiration on filing of application for renewal on a
4 form prescribed by the board, payment of all accrued and unpaid renewal fees and . . .
5 giving evidence to the board of compliance with the continuing education provisions of
6 this chapter. . ."

7 E. Section 5154 provides as follows:

8 "Except as provided in Section 13403 of the Corporations Code, each director,
9 shareholder, and officer of an accountancy corporation shall be a licensed person as
10 defined in the Moscone-Knox Professional Corporation Act."

11 F. Section 125.9(a) authorizes the Board to establish by regulation a system for
12 the issuance to a licensee of a citation which may contain an order of abatement or an
13 order to pay an administrative fine where the licensee is in violation of the applicable
14 licensing act or any regulation adopted pursuant thereto.

15 G. Section 125.9(b)(5) provides in part as follows:

16 "Failure of a licensee to pay a fine within 30 days of the date of the assessment,
17 unless the citation is being appealed, may result in disciplinary action being taken by the
18 board. . ."

19 H. Section 118 provides in part as follows:

20 "(b) The suspension, expiration, or forfeiture by operation of law of a license
21 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
22 of the board or by order of a court of law, or its surrender without the written consent of
23 the board, shall not, during any period in which it may be renewed, restored, reissued, or
24 reinstated, deprive the board of its authority to institute or continue a disciplinary
25 proceeding against the licensee upon any ground provided by law or to enter an order
26 suspending or revoking the license or otherwise taking disciplinary action against the
27 licensee on any such ground."

1 7. This accusation also refers to the following Sections of Title 16, Division 1, of
2 the California Code of Regulations ("Regulation"):

3 A. Regulation Section 52 provides as follows:

4 "A licensee shall respond to any inquiry by the Board or its appointed
5 representatives. The response shall include making available all files, working papers
6 and other documents requested. Failure to respond to the inquiry within 30 days
7 constitutes a violation of Section 5100(f) of the Accountancy Act. Any inquiry by the
8 Board requiring a response pursuant to this Section shall be in writing. The 30-day
9 response period begins when the inquiry is mailed to the licensee, or if not mailed, when
10 personally delivered."

11 B. Regulation Section 66.1 provides in part:

12 "..."

13 "(d) An accountancy corporation which has only one shareholder shall not render
14 professional services under a firm name which includes plural terms such as "and
15 Company" or "and Associates" unless the corporation employs a full-time professional
16 staff, other than the shareholder, consisting of at least one licensee and an employee or
17 assistant as described in Section 5053 of the Accountancy Act, or consisting of two or
18 more licensees.

19 "(e) An accountancy corporation which has only one shareholder shall not render
20 professional services under a firm name which includes a plural designation such as
21 "Certified Public Accountants" or "Public Accountants."

22 "..."

23 C. Regulation Section 95.4 provides in part as follows:

24 "The failure of a licensee to comply with a citation containing an
25 assessment of an administrative fine, an order of correction or abatement or both

26 ///

27 ///

1 an administrative fine and an order of correction or abatement after this citation is
2 final . . . shall constitute a ground for revocation or suspension of the license or permit."

3 COST RECOVERY

4 8. Code section 5107 provides for cost recovery in part as follows:

5 "(a) The Executive Officer of the board may request the Administrative Law
6 Judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder
7 of a permit or certificate found guilty of unprofessional conduct in violation of
8 subdivisions (b), (c), (i), or (j) of Section 5100, or involving a felony conviction in
9 violation of subdivision (a) of section 5100, or involving fiscal dishonesty in violation of
10 subdivision (h) of section 5100, to pay to the board all reasonable costs of investigation
11 and prosecution of the case, including, but not limited to, attorneys' fees. The board shall
12 not recover costs incurred at the administrative hearing.

13 "..."

14 Charges and Allegations

15 9. Respondent Schmidt's CPA license is subject to disciplinary action based on
16 the following:

17 A. In or about 1993, SB and others engaged respondent Schmidt to prepare
18 income tax returns and to provide accounting services for their business, RMC Acoustics
19 ("RMC"), a California corporation. In or about 1997, SB paid respondent Schmidt \$900 to
20 finalize the dissolution of RMC and to prepare 1996 corporate income tax returns. Respondent
21 Schmidt did not complete the corporate dissolution and failed to respond to SB's written notices
22 inquiring about the status of the corporate dissolution.

23 B. In or about March of 1998, in connection with an unrelated complaint against
24 respondent Schmidt, it came to the Board's attention that respondent Schmidt was engaging in
25 public accounting practice with an expired CPA license. On or about March 11, 1998, the Board
26 sent a letter to respondent Schmidt informing her that the practice of accountancy with an
27 expired CPA license constitutes a violation of Code Sections 5050 and 5154. The letter also

1 stated that using plural designations such as "certified public accountants," which designation
2 appeared on respondent Schmidt's business card, is not permissible under Regulation Section
3 66.1, where a firm consists of only one shareholder.

4 C. On or about April 22, 1998, the Board sent a follow-up letter advising
5 respondent Schmidt that, pursuant to Regulation Section 52, failure to respond to an inquiry
6 from the Board within 30 days constitutes a violation of Section 5100(f) of the Business and
7 Professions Code. Respondent Schmidt never replied to the Board. In August 1998, the Board
8 learned that she was engaging in accounting practice with an expired corporate license as well.

9 D. On or about September 14, 1998, the Board issued Citation Order No. CT-99-
10 68, due to respondent Schmidt's practice of accountancy with an expired CPA license. Citation
11 Order No. CT-99-68 contained one alleged violation: engaging in the practice of public
12 accountancy with an expired CPA license, in violation of Business and Professions Code Section
13 5050. Citation Order No. CT-99-68 proposed an administrative fine of \$1,000 and established
14 October 14, 1998, as the date on which, unless contested, the Citation would become a final
15 order of the Board.

16 E. On or about September 14, 1998, the Board issued Citation Order No. CT-99-
17 69 to respondent corporation. Citation Order No. CT-99-69 contained two alleged violations:
18 engaging in the practice of accountancy as a corporation without a valid permit, in violation of
19 Business and Professions Code Section 5050; and, engaging in the practice of accountancy under
20 a firm name which includes plural terms by a corporation with only one shareholder, in violation
21 of Regulation Section 66.1. Citation Order No. CT-99-69 proposed administrative fines totaling
22 \$1,500: \$1,000 for violation of Business and Professions Code Section 5050 and \$500 for
23 violation of Regulation Section 66.1. Citation Order No. CT-99-69 established October 14,
24 1998, as the date on which, unless contested, the Citation would become a final order of the
25 Board.

26 F. On or about September 14, 1998, copies of Citation Order Nos. CT-99-68 and
27 CT-99-69, Statements to Cited Person, Notices of Appeal, and relevant Government Code

1 sections (hereinafter "citation package") were served both by certified and by first class mail on
2 respondent Schmidt and on respondent corporation at their address of record with the Board:
3 5785 Oberlin Drive, Ste. 100, San Diego, CA 92121. On or about September 17, 1998, the
4 green domestic mail return receipts for the citation packages sent by certified mail were returned
5 to the Board by the United States Postal Service reflecting delivery. The above described service
6 was effective as a matter of law pursuant to the provisions of California Government Code
7 Section 11505(c) and Business and Professions Code Section 124. Respondent Schmidt and
8 respondent corporation failed to comply with Citation Order Nos. CT-99-68 and CT-99-69,
9 respectively, on or before October 14, 1998.

10 G. Respondents have relocated twice and have not notified the Board of either
11 move. The last address of record on file with the Board was 5785 Oberlin Drive, Ste. 100, San
12 Diego, CA 92121. The financial statements for RMC and the invoice sent to RMC dated May
13 21, 1997, reflect an address of 5703 Oberlin Drive, Ste. 105, San Diego, California 92121. A
14 post office yellow sticker attached to unclaimed certified mail, which was returned on November
15 4, 1998, shows the current address as 8015 Silverton Avenue, San Diego, California 92126.

16 **FIRST CAUSE FOR DISCIPLINE**
17 **(Gross Negligence in Public Accounting Practice)**

18 10. Respondent Schmidt has subjected her CPA License No. 38260 to
19 disciplinary action under Business and Professions Code Section 5100 for unprofessional
20 conduct as defined by Section 5100(c), in that she exhibited gross negligence in public
21 accounting practice by failing to effect the dissolution of RMC Acoustics, by failing to respond
22 to SB's repeated requests that she contact him about the status of the dissolution, and by
23 accepting payment for services that she never rendered.

24 **SECOND CAUSE FOR DISCIPLINE**
25 **(Fiscal Dishonesty/Breach of Fiduciary Responsibility)**

26 11. Respondent Schmidt has further subjected her CPA License No. 38260 to
27 disciplinary action under Business and Professions Code Section 5100 for unprofessional

1 conduct, as defined by Code Section 5100(h), in that she committed fiscal dishonesty or breached
2 her fiduciary responsibility to SB by retaining payment for services that she failed to render.

3 THIRD CAUSE FOR DISCIPLINE
4 (Practice of Accountancy with Expired CPA License)

5 12. Respondent Schmidt has further subjected her CPA License No. 38260 to
6 disciplinary action under Business and Professions Code Section 5050 in that, as of February 1,
7 1997, respondent has held herself out as a certified public accountant and engaged in the practice
8 of public accountancy with an expired license.

9 FOURTH CAUSE FOR DISCIPLINE
10 (Failure to Notify Board of Changes of Address)

11 13. Respondent Schmidt has further subjected her CPA License No. 38260 to
12 disciplinary action for failure to notify the Board in writing of at least two changes of address, in
13 violation of Regulation Section 3.

14 FIFTH CAUSE FOR DISCIPLINE
15 (Failure to Comply with Citation Order)

16 14. Respondent Schmidt has further subjected her CPA License No. 38260 to
17 disciplinary action under Regulation Section 95.4, in that she failed to comply with Citation
18 Order No. CT-99-68, which contained both an administrative fine and an order of correction and
19 abatement.

20 SIXTH CAUSE FOR DISCIPLINE
21 (Failure to Respond to Board's Requests for Information)

22 15. Respondent Schmidt has further subjected her CPA License No. 38260 to
23 disciplinary action under Regulation Section 52 in that she failed to respond to written inquiries
24 by the Board.

25 ALLEGATIONS AGAINST RESPONDENT SCHMIDT CORPORATION
26 (Vicarious Liability of Schmidt Corporation)

27 16. Respondent corporation has subjected its corporate License No. 2449 to

1 disciplinary action pursuant to Business and Professions Code Section 5100, as defined by Code
2 sections 5100(c), 5100(h), 5050 and 5154, and Regulations' Sections 3, 52, and 66.1, in that it is
3 responsible for the acts of its owner, respondent Schmidt, as described above.

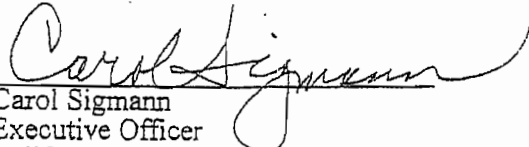
4 17. Respondent corporation is further subject to disciplinary action under
5 Regulation Section 95.4 in that it failed to comply with Citation Order No. CT-99-69, which
6 contained both an administrative fine and an order of correction and abatement.

7 PRAYER

8 WHEREFORE, complainant requests that a hearing be held on the matters
9 alleged herein, and that following said hearing, the Board issue a decision:

- 10 1. Revoking, suspending, or otherwise imposing discipline upon Certified
11 Public Accountant License No. 38260, heretofore issued to respondent Kathleen M.
12 Schmidt;
13 2. Revoking, suspending, or otherwise imposing discipline upon Schmidt
14 Accountancy Corporation, License No. COR 2449;
15 3. Awarding the Board costs as provided by statute; and,
16 4. Taking such other and further action as the Board deems proper.

17
18 DATED: December 30, 1999

19
20 
21 Carol Sigmann
22 Executive Officer
23 California Board of Accountancy
24 Department of Consumer Affairs
25 State of California

26 Complainant

27 03583110-SD98AD0148

///

///

1 BILL LOCKYER
Attorney General
2 SHERRY LEDAKIS,
Deputy Attorney General
3 State Bar No. 131767
110 West A St., Suite 1100
4 San Diego, CA 92101
P.O. Box 85266
5 San Diego, CA 92186-5266
Telephone: (619) 645-2078
6 Fax: (619) 645-2061
Attorneys for Complainant
7

8
9 **BEFORE THE**
BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **KATHLEEN M. SCHMIDT**
5785 Oberlin Drive, Ste. 100
13 San Diego, CA 92121

14 5703 Oberlin Drive, Ste. 105
San Diego, CA 92121

15 8015 Silverton Avenue
16 San Diego, CA 92126

17 CPA Certificate No. 38260

18 **SCHMIDT ACCOUNTANCY**
CORPORATION
19 5785 Oberlin Dr., Ste. 100
San Diego, CA 92121
20

21 5703 Oberlin Dr., Ste. 105
San Diego, CA 92121

22 8015 Silverton Avenue
23 San Diego, CA 92126

24 Certificate No. COR 2449,

25 Respondents.

) Case No.: AC-1999-21

) **DEFAULT DECISION AND**
) **ORDER**

) [Gov. Code, § 11502]

26 On January 11, 2000, Kathleen M. Schmidt and Schmidt Accountancy Corporation
27 ("Respondent Schmidt and Respondent Schmidt Accountancy," respectively) were sent via
28 ///

1 certified mail and first class mail, at their address on file with the Board of Accountancy, the
2 following pleading packet: Accusation; Statement to Respondent; Request for Discovery, and
3 Notice of Defense as provided by Government Code sections 11503 and 11505 ("pleading
4 packet"). Respondents failed to file a Notice of Defense as required by Government Code
5 section 11506. Respondents are in default. The default of respondents having been duly noted,
6 the Board of Accountancy ("Board") has determined that respondents have waived their right to a
7 hearing to contest the merits of the Accusation, and makes the following findings of fact:

8 **FINDINGS OF FACT**

9 1. On July 29, 1983, the Board issued Certificate No. 38260 to respondent
10 Schmidt. The license was in full force and effect until February 1, 1997, and has not been
11 renewed. On September 6, 1983, the Board issued respondent Schmidt Accountancy Certificate
12 of Registration No. COR 2449. [Exhibit A - License Certification.]

13 2. On November 30, 1999, complainant sent respondent Schmidt a letter via
14 certified and first class mail informing her of the charges and allegations against her and against
15 Schmidt Accountancy and requested her presence at a "pre-accusation filing conference." She
16 was informed in the letter that if she did not respond to the Board by December 15, 1999, an
17 accusation would be filed against her. Respondent and respondent Schmidt Accountancy failed
18 to respond to the letter. [Exhibit B - Pre-Filing Conference Letter.]

19 3. On December 30, 1999, complainant Carol B. Sigmann, in her official capacity
20 as Executive Officer of the Board filed Accusation No. AC-1999-21 against Respondent
21 Schmidt, and Respondent Schmidt Accountancy. [Exhibit C - Accusation.]

22 4. On January 11, 2000, complainant sent via certified and first class mail the
23 pleading packet, together with copies of all statutorily required documents to Respondent
24 Schmidt at her address of record with the Accountancy Board which was, and is, 5785 Oberlin
25 Drive, Suite 100, San Diego, California 92121. The aforementioned documents were returned by
26 the U.S. Postal Service as undeliverable. The certified packet, however, contained a forwarding

27 ///

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1 address for Respondent Schmidt at 8015 Silverton Avenue, San Diego, CA 92126-6383.

2 [Exhibit D - Unclaimed mail.]

3 5. On January 11, 2000, the aforementioned documents were again mailed by
4 regular and certified mail to Respondent Schmidt Accountancy at 5785 Oberlin Drive, Ste. 100,
5 San Diego, California 92121. The mail was returned as "Undeliverable as Addressed - Return to
6 Sender - Unclaimed." [Exhibit E - Unclaimed mail.]

7 6. On January 11, 2000, the aforementioned documents were again mailed by
8 regular and certified mail to respondent Schmidt at 8015 Silverton Avenue, San Diego,
9 California 92126. The mail was returned as "Unclaimed - Return to Sender" [Exhibit F.]

10 7. The Board received information that respondents moved their location to 5703
11 Oberlin Drive, Ste. 105. Therefore, on January 11, 2000, the aforementioned documents were
12 also mailed by regular and certified mail to Respondent Schmidt and Respondent Schmidt
13 Accountancy at 5703 Oberlin Drive, Ste. 105, San Diego, California. 92121. These documents
14 were marked "RTN to SEND" with a forwarding address of 8015 Silverton Avenue, San Diego,
15 California 92126-6383. [Exhibit G - unclaimed mail.]

16 8. Respondents failed to file a Notice of Defense within 15 days after service
17 upon them of the Accusation and therefore have waived their right to a hearing on the merits of
18 Accusation No. AC-1999-21.

19 9. Government Code section 11520 provides in pertinent part:

20 "(a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express
22 admissions or upon other evidence and affidavits which may be used as evidence
23 without notice to respondent;" (Emphasis added.)

24 10. The Board of Accountancy has determined that respondents have waived
25 their right to a hearing to contest the merits of the Accusation; further that respondents are in
26 default; and that the Board has jurisdiction pursuant to section 11520 of the Government Code to
27 take action against respondents based on the evidence in Exhibits A through G.

28 ///

1 11. The Board of Accountancy is authorized to revoke respondents' licenses
2 pursuant to the following statutes and regulations:
3 A. Code Section 5100 provides in part as follows:
4 "After notice and hearing the board may revoke, suspend or refuse to renew any
5 permit or certificate granted under Article 4 (commencing with Section 5070) and Article
6 5 (commencing with Section 5080), or may censure the holder of any such permit or
7 certificate for unprofessional conduct which includes, but is not limited to, one or any
8 combination of the following causes:
9 "... "
10 "(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy
11 or in the performance of the bookkeeping operations described in Section 5052.
12 "... "
13 "(f) Willful violation of any provision of this chapter or any rule or regulation
14 promulgated by the board under the authority granted under this chapter.
15 "... "
16 "(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind ...
17 "... "
18 B. Code Section 5050 provides in part as follows:
19 "No person shall engage in the practice of public accountancy in this State unless
20 such person is the holder of a valid permit to practice public accountancy issued by the
21 board; ..."
22 C. Section 5154 provides as follow:
23 "Except as provided in Section 13403 of the Corporations Code, each director,
24 shareholder, and officer of an accountancy corporation shall be a licenced person as
25 defined in the Moscone-Knox Professional Corporation Act."
26 D. Section 125.9(b)(5) provides in part as follows:
27 "Failure of a licensee to pay a fine within 30 days of the date of the assessment,
28 ///

1 unless the citation is being appealed, may result in disciplinary action being taken by the
2 board. . .”

3 E. Section 118 provides in part as follows:

4 “(b) The suspension, expiration, or forfeiture by operation of law of a license
5 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
6 of the board or by order of a court of law, or its surrender without the written consent of
7 the board, shall not, during any period in which it may be renewed, restored, reissued, or
8 reinstated, deprive the board of its authority to institute or continue a disciplinary
9 proceeding against the licensee upon any ground provided by law or to enter an order
10 suspending or revoking the license or otherwise taking disciplinary action against the
11 licensee on any such ground.”

12 F. Title 16, Division 1, of the California Code of Regulations ("Regulation"):

13 Regulation Section 52 provides as follows:

14 “A licensee shall respond to any inquiry by the Board or its appointed
15 representatives. The response shall include making available all files, working papers
16 and other documents requested. Failure to respond to the inquiry within 30 days
17 constitutes a violation of Section 5100(f) of the Accountancy Act. Any inquiry by the
18 Board requiring a response pursuant to this Section shall be in writing. The 30-day
19 response period begins when the inquiry is mailed to the licensee, or if not mailed, when
20 personally delivered.”

21 Regulation Section 66.1 provides in part:

22 “ . . . ”

23 “(d) An accountancy corporation which has only one shareholder shall not render
24 professional services under a firm name which includes plural terms such as “and
25 Company” or “and Associates” unless the corporation employs a full-time professional
26 staff, other than the shareholder, consisting of at least one licensee and an employee or

27 ///

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1 assistant as described in Section 5053 of the Accountancy Act, or consisting of two or
2 more licensees.

3 "(e) An accountancy corporation which has only one shareholder shall not render
4 professional services under a firm name which includes a plural designation such as
5 "Certified Public Accountants" or "Public Accountants."

6 "..."

7 Regulation Section 95.4 provides in part as follows:

8 "The failure of a licensee to comply with a citation containing an
9 assessment of an administrative fine, an order of correction or abatement or both
10 an administrative fine and an order of correction or abatement after this citation is
11 final . . . shall constitute a ground for revocation or suspension of the license or permit."

12 12. Respondents have subjected their licenses to discipline under Business and
13 Professions Code sections 5100, 5050, 5154, 125.9(b)(5), 118 and Title 16 of the California
14 Code of Regulations sections 52, 66.1 and 95.4, as set forth in the Accusation attached hereto and
15 hereby incorporated by reference as contained in Exhibit C.

16 **DETERMINATION OF ISSUES**

17 1. Pursuant to Government Code section 11520, the Board hereby takes the
18 within action based on the evidence in **Exhibits A through G**.

19 2. Pursuant to authority under Government Code section 11520, and based on the
20 evidence before it, the Board finds that the charges and allegations contained in Accusation No.
21 AC 1999-21, separately and severally, and the Findings of Fact, paragraphs 1-12, above, and
22 each of them, separately and severally, are true and correct.

23 3. Pursuant to authority under Government Code section 11520, and by reason of
24 the Findings of Fact contained in paragraphs 1 through 12, above, and Determination of Issues
25 numbers 1 and 2, above, separately and severally, respondent Kathleen M. Schmidt has subjected
26 her Certificate No. 38260 to revocation under Business and Professions Code sections 5100,

27 ///

28 ///

1 5050, 5154, ~~125.9(b)(5)~~, 118, and Title 16 of the California Code of Regulations, sections 52,
2 66.1 and 95.4.

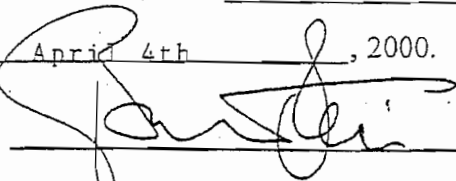
3 4. Pursuant to authority under Government Code section 11520, and by reason of
4 the Findings of Fact contained in paragraphs 1 through 12, above, and Determination of Issues
5 numbers 1 and 2, above, separately and severally, respondent Schmidt Accountancy Corporation
6 has subjected its Certificate No. COR 2449 to revocation under Business and Professions Code
7 sections 5100, 5050, 5154, 125.9(b)(5), 118 and Title 16 of the California Code of Regulations
8 sections 52, 66.1 and 95.4.

9 **DECISION AND ORDER OF THE BOARD**

10 Certificate No. 38260, heretofore issued to Kathleen M. Schmidt, is hereby
11 revoked. Certificate No. COR 2449, heretofore issued to Schmidt Accountancy Corporation, is
12 hereby revoked.

13 This decision shall become effective on May 4th, 2000.

14 Dated and signed April 4th, 2000.

15 
16 _____
17 FOR THE BOARD OF ACCOUNTANCY
18 Department of Consumer Affairs
19 State of California
20 Complainant
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KMS-PET037

Memorandum

CBA Agenda Item XI.B.
January 27-28, 2011

To : Patti Bowers, Executive Officer
CBA Members

Date : January 18, 2011

Telephone : (916) 561-1731

Facsimile : (916) 263-3673

E-mail : rixta@cba.ca.gov

From : Rafael Ixta
Chief, Enforcement Division

Subject : **SHARPE, JAMES DONALD – Case No. SI-2011-7**
Petition for Reinstatement of Revoked Certificate
Certificate No. 38745
Yuba City, California

The above-referenced Petition for Reinstatement of Revoked Certificate has been scheduled for hearing on January 28, 2011 at the January 27-28, 2011 California Board of Accountancy (CBA) meeting.

The Office of Administrative Hearings will assign an Administrative Law Judge to preside at the hearing, as well as a court reporter to capture a record of the discussion.

In addition, the Attorney General's Office has assigned a Deputy Attorney General to appear at the hearing.

The following documents are attached for your reference.

1. Petition for Reinstatement of Revoked Certificate.
2. Accusation No. AC-92-39, dated September 29, 1993.
3. Default Decision No. AC-92-39, effective March 16, 1994.
4. Certification of License History.

REPRESENTATION

Mr. Sharpe will attend the hearing **with** his legal counsel, Jeff Kravitz and Thomas Davenport of Kravitz Law Office.

CAUSE FOR DISCIPLINE

Mr. Sharpe was grossly negligent in his preparation of audit reports for the fiscal years ended June 30, 1987 and June 30, 1988. Deficiencies included the omission of prescribed general purpose financial statements, improperly formatted statements of revenue and expenditures, omission of required footnote disclosures, omissions of opinions regarding supplementary information, omission of reports on internal control structure, and failure to document audit planning.

CODE VIOLATIONS

California Business and Professions Code, Division 3, Chapter 1, Section 5100(c).

ADDITIONAL INFORMATION FOR CBA CONSIDERATION

- **Reimbursement of Investigation and Prosecution Costs**

The CBA requested reimbursement of investigation and prosecution costs in Accusation No. AC-92-39; however, costs were not ordered in Default Decision and Order No. AC-92-39. The investigation and prosecution costs incurred by the CBA in Case No. AC-92-39 totaled \$3,092.62. Mr. Sharpe indicated in his petition his willingness to pay costs.

- **Continuing Professional Education**

Mr. Sharpe submitted evidence of completion of 184 hours of continuing professional education in the following areas.

Completed in 2005 (28 hours)

- 28 hours in accounting and auditing.

Completed in 2010 (129 hours)

- 83 hours in accounting and auditing.
- 44 hours in tax.
- 2 hours in technical subject matter.

Completed in 2011 (27 hours)

- 27 hours in tax.

- **Letters of Recommendation**

Mr. Sharpe submitted six letters of recommendation.

RI:mls

Attachments



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO CA 95815-3632
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



PETITION FORM

(See Instructions)

Please type or print legibly

NAME James D. Sharpe	PETITION FOR <input checked="" type="checkbox"/> Reinstatement of Revoked Certificate <input type="checkbox"/> Reinstatement of Surrendered Certificate
Email Jims@syix.com	
Residence Address 3315 La Mantia Drive Yuba City, CA 95993	
Telephone No. 530 592-5046	
Business Address 	
Telephone No. 	

ACADEMIC DEGREES:	Bachelors Accounting		
Name of School:	Whittier College		
Date Degree Granted:	May 30, 1981		

California CPA License No. 38745	Date Issued: 9/23/1983
-------------------------------------	---------------------------

Other State/Country License Information:

State/Country	License No.	Date Issued:	Current Status
State/Country	License No.	Date Issued:	Current Status

EFFECTIVE DATE OF REVOCATION/SUSPENSION: March 16, 1994

REASON FOR DISCIPLINE:

See attachment 1

Practice Prior to Order of Revocation/Suspension (List only immediate ten-year period)

Dates	Type of Practice	Location
1/1/1985 to 10/1/1989	Sole Practitioner - CPA	Yuba City, California
10/1/1989 to 1/1/1991	Controller for Lou-Mac's Lumber	Aumsville, Oregon
1/1/1991 to 3/1/1993	Owner/Programmer - Sharpe Software	Yuba City, California
3/1/1993 to 6/1/1995	Controller for Tri-Counties Insurance Group	Yuba City, California

List your occupation and activities since the date of the Order: see attachment 2

Dates	Occupation	Duties/Activities	Location

1. Since the effective date of the Order, have you been involved in any of the following situations?

- a) Charged with or convicted of a violation of Federal or State law (minor traffic violations are excepted)?
☐ YES ☒ NO
- b) Has another governmental or regulatory body or agency disciplined or sanctioned you since the date of the Order?
☐ YES ☒ NO
- c) Are you now on probation or parole to the courts for any criminal violation(s) in this or any other state?
☐ YES ☒ NO

IF YOU ANSWER YES TO ANY OF THE ABOVE, PLEASE ATTACH A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

2. Based on the Order of Revocation, prior to or upon reinstatement of a revoked certificate, the petitioner will generally be required to reimburse the California Board of Accountancy (CBA) for all reasonable costs of investigation and prosecution of the violations for which action was taken against the petitioner's license. Have you reimbursed the CBA for these costs?

☐ YES ☒ NO see attachment 3

If NO, please explain why on Page 5. If you believe that payment of these costs would cause an unreasonable financial hardship that could not be remedied through a payment plan, please explain and provide documentation to support your claim of financial hardship.

JDS-PET003

3. As part of the petition process, the CBA evaluates the petitioner's compliance with any ordered or voluntary restitution to harmed clients/consumers. Have you made restitution to any parties financially harmed by the violations for which action was taken against your license?

☐ YES ☒ NO *See attachment 3*

If YES, please provide proof of payment. If NO, please explain on Page 5.

4. Continuing Professional Education

Have you completed any post-graduate or refresher courses, seminars, workshops, etc., since the date of the Order?

☒ YES ☐ NO

If YES, please complete the enclosed Continuing Education Reporting Worksheet and enclose copies of course completion certificates. *See attachment 4*

5. Have you published any literature since the date of the Order?

☐ YES ☒ NO

If YES, please provide publication name, date article published and title of article.

Publication Name	Date Published	Article Title

6. Do you believe you are ready to take an examination if one should be imposed upon you?

☒ YES ☐ NO

7. Explain why you believe your petition should be granted.

See attachment 5

8. If the CBA grants your Petition, where will you practice and what type of services will you perform? If you will not be performing public accounting services, what type of occupation will you be involved in?

See attachment 6

9. Do you plan to attend the hearing before the CBA Board in the matter of this Petition?

☒ YES ☐ NO

10. Do you plan to have legal counsel represent you at the hearing before the CBA Board in the matter of this Petition?

☒ YES ☐ NO

Legal Counsel Name

Jeff Kravitz and Thomas Davenport

Firm Name

Kravitz Law Office

Address

2310 J Street, Suite A, Sacramento, CA 958

Telephone No.

(916) 553-4072

I herewith submit this Petition, as required by the California State Board of Accountancy, and declare under penalty of perjury that I have read the foregoing petition in its entirety and know its contents, and that all statements are true in every respect, and I understand that misstatements or omissions of material fact may be cause for denial of the petition.

James D. Sharpe
(Signature)

10/28/2010
(Date)

Please return completed form to:
California Board of Accountancy
Enforcement Division
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Attn: Michele Santaga, Enforcement Analyst

JDS-PET005

ATTACHMENT # 1

Reason for Discipline including copy of Default Decision.

Reason for Discipline:

In a default decision I was found grossly negligent in the supervision, disclosures and formatting of the Audited Financial Statements of the City of Wheatland for the fiscal years 1987 and 1988.

A copy of the Decision is attached for reference.

JDS-PET007

ATTACHMENT # 2

Occupation and Activities since the date of the order.

JDS-PET008

Occupation and activities since the date of the Order

June 25, 1998 to August 13, 2010 (company was sold)

Controller, Human Resources, Compliance, Risk Manager, and IT manager for Pepsi Cola Bottling Company of Yuba City, CA.

In this function I was responsible for the financial systems and operating systems of the company, worked with the software providers and eventually replaced the accounting and hand held systems. I wrote the interface between the accounting system and the hand held delivery system. I learned and installed Microsoft Dynamics Great Plains, FRX and integration manager.

I supervised 7 employees that set pricing, performed AR, AP, Cash operations, Inventory and Payroll. I contracted with the insurance brokers and monitored the bidding process. I filed all of the permit applications and renewals, and dealt with all regulatory agencies.

I performed all human resource functions with the help of the sales manager including employment testing, training of personnel, Workers Compensation administration, OSHA reporting and Safety compliance.

June 1995 to June 1998:

Controller for Avalon Bay Foods:

In this function I oversaw the financial and Human Resources Functions and reported to the corporate office in Los Angeles. Contracted for all insurance and managed all risk.

I had installed and written part of their accounting software and inventory management software before they asked me to be their controller. I originally wrote programs for them in 1986. The company was sold in 1998.

JDS-PET009

ATTACHMENT # 3

Explanation concerning reimbursement and restitution.

JDS-PET010

2 and 3. Explanation Concerning Reimbursement and Restitution:

I believe that I will be able to pay reimbursement to the board for all costs involved in the case but at this time I do not know the amount required.

No restitution was ordered or asked for by any party as there was no financial harm to any party. If restitution is asked for I will comply.

JDS-PET011

ATTACHMENT #4

Continuing Education

I have completed additional continuing education but I do not have the certificates so I am only listing those classes for which have the certificates.

JDS-PET012

CPA

If additional space is needed, this form may be reproduced.
Subject & Method of Presentation Codes are located on the accompanying instruction sheet.



June 05, 2005

JAMES D SHARPE [1030186]
JAMES D. SHARPE
1628 REBECCA DRIVE
YUBA CITY CA 95991
USA

Continuing Professional Education
Harborside Financial Center
201 Plaza Three
Jersey City, NJ 07311-3881
(201) 938-3000 (212) 318-0500
Fax (201) 938-3516

CERTIFICATE OF COMPLETION

This certifies that you have successfully completed course: [733674]

COMPILATION AND REVIEW ENGAGEMENTS

and are awarded this Certificate on

June 05, 2005

Recommended CPE credit: 4 Credits (based on a 100-minute hour) *
8 Credits (based on a 50-minute hour) **
8 QAS Credits ***

Field of Study	100-minute hour	50-minute hour	QAS
Accounting and Auditing	4	8	8

Please retain this document for your records.

TestID: [1504725]

Important: CPAs should contact their state board to determine sponsor registration requirements.

* In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 100-minute hour.

** In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 50-minute hour.

*** In accordance with the standards of the Quality Assurance Service (QAS) Program, CPE credits have been granted based on a 50-minute hour.

Instructional Delivery Method: Self-Study

Courses in the personal development field of study are not part of the QAS program.

DAVID A. TOLSON, CPA – TX
DIRECTOR – CPE PRODUCT DEVELOPMENT

AICPA CPE SPONSOR REGISTRATION NUMBERS
Illinois: 158-000880 Pennsylvania: PX-177106 All Others: A-0001
New Jersey: CE00029900 Texas: 215 QAS: 013
New York: 648

JDS-PET014



June 06, 2005

JAMES D SHARPE [1030186]
JAMES D. SHARPE
1628 REBECCA DRIVE
YUBA CITY CA 95991
USA

Continuing Professional Education

Harborside Financial Center

201 Plaza Three

Jersey City, NJ 07311-3881

(201) 938-3000 (212) 318-0500

Fax (201) 938-3516

CERTIFICATE OF COMPLETION

This certifies that you have successfully completed course: [733086]

CASH AND TAX BASIS FINANCIAL STATEMENTS - PREPARATION AND REPORTING

and are awarded this Certificate on

June 06, 2005

Recommended CPE credit: 4 Credits (based on a 100-minute hour) *
8 Credits (based on a 50-minute hour) **
8 QAS Credits ***

Field of Study	100-minute hour	50-minute hour	QAS
Accounting and Auditing	4	8	8

Please retain this document for your records.

TestID: [1505001]

Important: CPAs should contact their state board to determine sponsor registration requirements.

* In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 100-minute hour.

** In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 50-minute hour.

*** In accordance with the standards of the Quality Assurance Service (QAS) Program, CPE credits have been granted based on a 50-minute hour.

Instructional Delivery Method: Self-Study

Courses in the personal development field of study are not part of the QAS program.

DAVID A. TOLSON, CPA - TX
DIRECTOR - CPE PRODUCT DEVELOPMENT

JDS-PET015

AICPA CPE SPONSOR REGISTRATION NUMBERS
Illinois: 158-000880 Pennsylvania: PX-177106 All Others: A-0001
New Jersey: CE00029900 Texas: 215 QAS: 013
New York: 648



June 09, 2005

JAMES D SHARPE [1030186]
JAMES D. SHARPE
1628 REBECCA DRIVE
YUBA CITY CA 95991
USA

Continuing Professional Education
Harborside Financial Center
201 Plaza Three
Jersey City, NJ 07311-3881
(201) 938-3000 (212) 318-0500
Fax (201) 938-3516

CERTIFICATE OF COMPLETION

This certifies that you have successfully completed course: [732431]

SMALL BUSINESS AUDITS: BALANCING RISK, EFFECTIVENESS, AND EFFICIENCY IN TODAY'S WORLD

and are awarded this Certificate on

June 09, 2005

Recommended CPE credit: 6 Credits (based on a 100-minute hour) *
12 Credits (based on a 50-minute hour) **
12 QAS Credits ***

Field of Study	100-minute hour	50-minute hour	QAS
Accounting and Auditing	6	12	12

Please retain this document for your records.

TestID: [1505506]

Important: CPAs should contact their state board to determine sponsor registration requirements.

* In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 100-minute hour.

** In accordance with the AICPA/NASBA Statement on Standards for Continuing Professional Education Programs, CPE credits have been granted based on a 50-minute hour.

*** In accordance with the standards of the Quality Assurance Service (QAS) Program, CPE credits have been granted based on a 50-minute hour.

Instructional Delivery Method: Self-Study

Courses in the personal development field of study are not part of the QAS program.

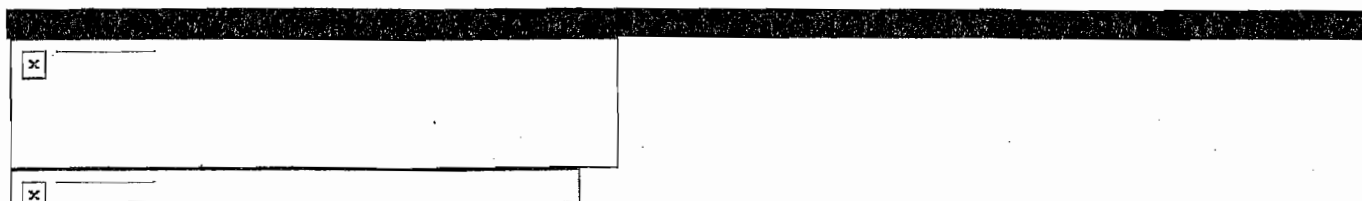
DAVID A. TOLSON, CPA - TX
DIRECTOR - CPE PRODUCT DEVELOPMENT

JDS-PET016

AICPA CPE SPONSOR REGISTRATION NUMBERS
Illinois: 158-000880 Pennsylvania: PX-177106 All Others: A-0001
New Jersey: CE00029900 Texas: 215 QAS: 013
New York: 648

Jim Sharpe

From: Vanessa Cook <vanessa.cook@cpaexcel.com>
Sent: Tuesday, December 07, 2010 3:03 PM
To: jims@syix.com
Subject: CPAexcel Certificate - AUD



CPAexcel AUD Certificate 12-07-2010

To Whom It May Concern,

This certifies that James Sharpe has completed the Auditing and Attestation section of the CPAexcel Video Gold Medal Edition with a score of 90% as of this date and spent 42 hours studying this section.

Sincerely,

Vanessa Cook

Customer Service/Technical Support Manager

Efficient Learning Systems, Inc.

888.884.5669

vanessa.cook@efficientlearning.com

JDS-PET017

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**

For successfully completing: **OCBOA Accounting and Auditing**

Course No: **ACT-10-0046**

Recommended Number of CPE Credits: **10.00**

Course Categories: **Accounting and Auditing**

Course Method: **Interactive Self Study**

Date: **Sunday, December 12, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET018

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**

For successfully completing: **GAAP - Everything You Never Wanted to Know About GAAP**

Course No: **ACT-10-0022**

Recommended Number of CPE Credits: **16.00**

Course Categories: **Accounting and Auditing**

Course Method: **Interactive Self Study**

Date: **Saturday, December 11, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET019

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Government Auditing**

Course No: **ACT-10-0036**

Recommended Number of CPE Credits: **15.00**

Course Categories: **Accounting and Auditing**

Course Method: **Interactive Self Study**

Date: **Tuesday, December 14, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET044

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented
to:

James Sharpe

38745 CPA - California Board of
Accountancy

For successfully completing: **1040 Workshop**

Course No: **TAX-10-0004**

Recommended Number of CPE Credits: **40.00**

Course Categories: **Taxation**

Course Method: **Interactive Self Study**

Date: **Friday, December 31, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET045

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented
to:

James Sharpe

38745 CPA - California Board of
Accountancy

For successfully completing: **American Recovery & Reinvestment
of 2009**

Course No: **TAX-10-0061**

Recommended Number of CPE Credits: **4.00**

Course Categories: **Taxation**

Course Method: **Interactive Self Study**

Date: **Sunday, December 19, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

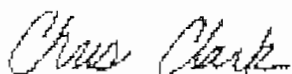
New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



JDS-PET046

Chris Clark, President

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented
to:

James Sharpe

38745 CPA - California Board of
Accountancy

For successfully completing: **Building Interactive Excel Spreads
for Data Capture**

Course No: **SK-10-0108**

Recommended Number of CPE Credits: **2.00**

Course Categories: **Specialized Knowledge & Applications
Webinars**

Course Method: **Group Internet Based - Webinar**

Date: **Wednesday, December 15, 2010**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



JDS-PET047



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



TO WHOM IT MAY CONCERN:

The undersigned shares in the custody and control of the files and records of this agency and hereby certifies that the attached documents are a true and correct copy of the original or the original copy of the Certificates of Completion for the following continuing professional education courses for JAMES SHARPE contained in the files of this office, and said documents were received in the normal course of business.

- Government Auditing.
- Building Interactive Excel Spreadsheets for Data Capture.
- American Recovery & Reinvestment Act of 2009.
- 1040 Workshop.

Paul Fisher
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

JDS-PET048

January 3, 2011

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Bankruptcy Tax Issues**

Course No: **TAX-10-0040**

Recommended Number of CPE Credits: **2.00**

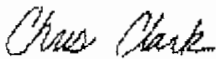
Course Categories: **Taxation (2.00 credits)**

Course Method: **Interactive Self Study**

Date: **Sunday, January 02, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET049

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Corporate Tax Planning**

Course No: **TAX-10-0017**

Recommended Number of CPE Credits: **25.00**

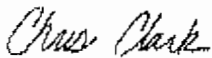
Course Categories: **Taxation (25.00 credits)**

Course Method: **Interactive Self Study**

Date: **Sunday, January 09, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: 001945
Illinois Department of Professional Regulation Provider Number: 158-002100
New Jersey State Board of Accountancy Provider Number #: 1918
Texas State Board of Public Accountancy Sponsor ID: 008924
Pennsylvania State Board of Accountancy Sponsor ID: PX-177527
Accountancy Board of Ohio Sponsor ID: CPE.53
Office of Professional Responsibility, Internal Revenue Service: Sponsor No. 9



Chris Clark, President

JDS-PET050

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Ethics for CPAs - 4 hr.**

Course No: **ETH-10-0050**

Recommended Number of CPE Credits: **4.00**

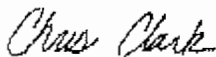
Course Categories: **Regulatory Ethics**

Course Method: **Interactive Self Study**

Date: **Thursday, January 13, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Ethics for California CPAs**

Course No: **ETH-10-0027**

Recommended Number of CPE Credits: **4.00**

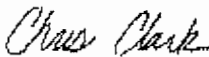
Course Categories: **Regulatory Ethics**

Course Method: **Interactive Self Study**

Date: **Thursday, January 13, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

ATTACHMENT #5

Explanation as to why petition should be granted.

JDS-PET020

7. Explain why you believe your petition should be granted:

I respectfully request that my license be reinstated because I believe that in the 16 years since the revocation that was based on actions that occurred over twenty years ago, I have learned from my mistakes and I am capable of ethically performing the duties of a Certified Public Accountant.

My license was revoked because of my negligent actions in preparing Financial Statements for the City of Wheatland in 1987 and 1988. I was negligent in this work at the time. I started auditing the city in 1985; it was a small city of less than 300 residents with an accounting staff of two employees. It had a volunteer fire department and a police force of three. I donated my fee back to the city, the second year and did the audit pro bono the last two years. I know now that I should have taken the audit seriously and I was embarrassed and ashamed when the state controller's office referred the audit to the Board. I did not challenge the accusation against me and I accept full responsibility for my actions. I deeply regret my grossly negligent actions in the preparation of these statements.

I know that at that time I did not keep up with the GASB pronouncements and was not aware of the single audit requirement as well as the disclosure requirements. I since have read the OMB 133 and 122 statements and I understand the importance of the new requirements.

Since the revocation of my license in 1994 I have worked as a Controller for Avalon Bay Foods and for the Pepsi Cola Bottling Company in Yuba City. During the course of my work I had the opportunity to work directly with CPA's and continued to develop a keen understanding of the integrity and professionalism of this important public trust.

I have decided to petition for reinstatement because I know that I have developed the maturity and discipline to assure that I will follow all of the rules and regulations of the accounting profession to the outmost detail. I have continued to educate myself on the latest developments in the field and have attending continuing education seminars.

My career since the revocation has involved the integration of various computer systems with accounting infrastructure. During these past decades there have been no allegations of instances of any negligence in my work. I thoroughly check everything I do to make sure it is done correctly and as I believe is evidenced by the attached letters of recommendation; I have earned the respect of my colleagues for my high standards.

I enjoy working on accounting projects and like being able to help people with their accounting problems. I look forward to having the opportunity to answer any and all questions that the Board may have for me at the time of the hearing.

ATTACHMENT #6

Post reinstatement career plans.

JDS-PET022

8. If the CBA grants your petition where will you practice and what types of services will you perform?

If the Board grants my petition I plan on practicing in the Yuba County region. My plan would be to offer tax accounting services to individuals and businesses including representation before the IRS. I also will use my extensive knowledge of computer based services to assist businesses in implementing and maintaining computerized accounting services. In addition I plan to develop some computer software products for CPA's such as practice management tools. I do not plan to perform audits or attestation services unless I am working for a CPA firm with the capacity to perform such services. I do not have the capital to properly finance an audit practice.

JDS-PET023

ATTACHMENT #7

Letters of Recommendation

Donald Turano, CPA

Steven Harrah, CPA

John Cary, Former President of Pepsi-Cola Bottling Company of Yuba City

Thomas Moreno, Professor Emeritus, Yuba Community College

Larry Montna, Board Of Supervisors of Sutter County

Liz Hengesbach, CEO Hacienda de Coleres

JDS-PET024

DONALD J. TURANO
CERTIFIED PUBLIC ACCOUNTANT

DONALD J. TURANO, CPA

STUART N. MUSFELT, CPA
NICOL C. NABETA, CPA

950 CLARK AVENUE • YUBA CITY, CALIFORNIA 95991 • TELEPHONE (530) 673-8748 • FAX (530) 673-8605

October 5, 2010

Board of Accountancy
2000 Evergreen Drive, Suite 250
Sacramento, CA 95815

Dear Sirs:

I have been the Accountant for Pepsi Cola Bottling of Yuba City since 1963. I was also an Officer of the corporation. During the past 12 years Jim Sharpe has been the controller for that entity and has prepared the GL for my review and my preparation of the Federal and State Income tax returns. He also worked with me to help transfer the books to the public company that acquired the local Pepsi Franchise.

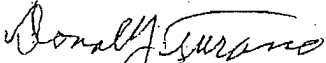
I signed all the annual tax returns of the Corporation except for the quarterly payroll, sales tax returns and CRV returns which Jim signed as the preparer.

I am aware that Jim lost his license due to problems with an audit of the City of Wheatland. I have not looked into all of the aspects of this event.

During my work with Jim, I am not aware of any actions that would be in conflict with any of the rules related to the California Board of Accountancy..

I understand that Jim is petitioning for reinstatement of his license. I recommend that Jim be reinstated.

Sincerely,


Donald J. Turano, CPA
License # 16415

JDS-PET025

STEVEN L. HARRAH, CPA
Treasurer - Tax Collector



WALTER R. CASSI
Assistant Treasurer - Tax Collector

COUNTY OF SUTTER
TREASURER AND TAX COLLECTOR

California Board of Accountancy
2000 Evergreen Street
Suite 250
Sacramento, CA 95815-3832

Re: James D. Sharpe

October 4, 2010

To whom it may concern:

I am writing to voice my recommendation for the reinstatement of James D. Sharpe as a Certified Public Accountant.

I have been acquainted with James Sharpe for twenty-four years, during which Mr. Sharpe has always displayed a high level of integrity and professionalism both in practice and in his personal life. My relationship with Mr. Sharpe has changed over time from employee to client to colleague. Mr. Sharpe was instrumental in my pursuit of licensing and was very cooperative in my filing.

I am aware of the revocation of Mr. Sharpe's license in 1994, due to negative circumstances relating to his 1987/1988 audit of the City of Wheatland. I am also aware that for the last twelve years Mr. Sharpe has held the position of Controller at Pepsi Cola located in Yuba City and during those twelve years, Mr. Sharpe never held himself out as a CPA in any form or practice.

I believe Mr. Sharpe to be very intelligent well educated and informed and that Mr. Sharpe takes great pride in his work, which I have always found to be complete and well organized. Again, it is my recommendation and belief that James D. Sharpe be reinstated as a licensed Certified Public Accountant in the State of California.

Should you wish to discuss Mr. Sharpe further please feel free to contact me.

Best regards;

A handwritten signature in dark ink, appearing to read "Steven L. Harrah".

Steven L. Harrah, CPA
Lic.# 94731

JDS-PET026

John W. Cary
5316 Madden Ave, Live Oak, CA 95953
(530) 218-4589

October 5, 2010

Board of Accountancy
2000 Evergreen Drive, Suite 250
Sacramento, CA 95815

I was the President of Pepsi-Cola Bottling Company of Yuba City until it was sold on April 16th of 2010. My family also owned a related business, Dynamic Vending which was also sold to PepsiCo in April.

Jim Sharpe worked for me in the capacity of controller for approximately 12 years. When I hired Jim I was made aware of his license revocation and I checked into the reasons with the board and then interviewed him about the situation. He answered my questions honestly. He was a diligent and faithful accountant and prepared my books and supervised the accounting staff well. He was also an integral part of selling the company this year. He has not represented himself as a CPA during the last 12 years although he has expressed an interest in regaining his license.

Jim is very honest. He has admitted mistakes he made during his tenure with my company. He was fair to his personnel and gave them credit when due. He has also admitted mistakes that he made regarding his license and supervising his personnel.

His knowledge of accounting systems and computer systems has been valuable to me and I know that they could be valuable to other companies. He transferred my accounts from an old proprietary system to Microsoft Dynamics Great Plains. He also wrote integrations that linked my handheld system to the Great Plains system.

I recommend that the Board of Accountancy reinstate Jim with conditions that allow him to rehabilitate himself with the profession. I am sure that he will be an asset in the future.

Sincerely,


John W. Cary

JDS-PET027

October 4, 2010

Board of Accountancy
2000 Evergreen Dr Suite 250
Sacramento, CA 95815

Gentlemen:

I am a Professor of Accounting Emeritus from Yuba Community College at Marysville, California and I am writing this letter as a reference for James D. Sharpe. I have been acquainted with Jim since the Fall of 1977 when as a freshman accounting student he attended my Accounting 1 and 2 classes. His performance made him one of the finest students in my 37 year educational career. After two years at Yuba College, Jim transferred to Whittier College completing a Bachelors Degree in Accounting in June of 1981. He then successfully completed the CPA exam and went on to work for Ernst & Whinney in Los Angeles. In 1983 Jim applied for and received his certificate as a Certified Public Accountant. In 1984 he worked for Cole Chiara & Co of Sacramento California. In late 1985 Jim began his own practice in Marysville. During this period he was also employed as an Internal Auditor at Yuba College and also as an Adjunct Instructor of Accounting. During this time, I worked closely with Jim in the development of new curriculum for an Information Technology Program at the college and he taught a number of courses in Business Computer Applications. In 1989 Jim became the Controller for Loumacs Lumber Company of Aumsville, Oregon. In late 1991 through 1993 he was employed to develop of an integrated estimating package for construction bidding, currently being marketed as Shapsoft Estimating Software. In 1993 Jim was employed as the Controller for Tri-Counties Schools Insurance Group. During June of 1998 he began work for Pepsi Cola Bottling Company of Yuba City as Controller until recently when the business was acquired by Pepsico. He continues to consult with the new owners.

During this entire period I have been in close contact with Jim and followed his career. I am aware that Jim lost his license to practice in 1994 and has not represented himself as a CPA since that time. I am also aware that he is petitioning for his reinstatement with the Board. I have worked closely with him over the years and highly recommend his reinstatement.

Should you have any questions concerning Jim's abilities, character or career, please feel free to contract me at your convenience.

Sincerely



Thomas W. Moreno Professor Emeritus
18609 Biladeau Ln
Penn Valley, CA 95946
(530) 432-0555
Tom_Moreno@sbcglobal.net

JDS-PET028

Larry Montna
1498 Princess Street
Yuba City, CA 95991
(530) 674-7030

September 29, 2010

Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, California 95815-3832

Dear sirs:

I have known Jim Sharpe for the last 10 years through Kiwanis. I am a past Lieutenant Governor and my wife Norma is as well. My wife and I helped to start the Kiwanis house at UC Davis Medical Center and we started Butchies Pool in Yuba City to help disabled children.

Jim has worked on the Marysville Youth Fishing Derby since 1993 and has helped raise money for the Marysville Kiwanis Club each of those years. He has been President of the club and a supporter of our efforts. He has worked on the Kiwanis House in Sacramento and has helped with numerous fund raisers over the years.

I would recommend him as a person and a candidate for reinstatement as a Certified Public Accountant.

Sincerely,

A handwritten signature in black ink that reads "Larry Montna". The signature is stylized with a large, flowing "L" and "M".

Larry Montna

Supervisor of District 1

Sutter County

JDS-PET029

October 5, 2010

Liz Hengesbach
14553 Rattlesnake Road
Grass Valley, CA 95945
530-273-0787

To Whom It May Concern:

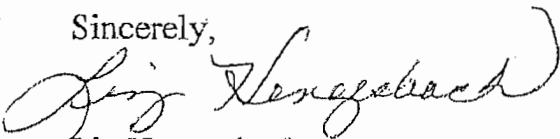
During the past nine years Jim Sharp has donated his time and expertise preparing the state and federal taxes for our non-profit organization, Hacienda de Colores.

Jim is honest, prompt and committed to the highest standards of integrity. He has contributed greatly to the success of our program in many ways, including traveling numerous times from Yuba City to Grass Valley free of charge.

Jim is always willing to go above and beyond whatever is needed to help our program and its participants.

Please feel free to call me with any further questions.

Sincerely,



Liz Hengesbach
CEO Hacienda de Colores

JDS-PET030

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JOEL S. PRIMES, Supervising
Deputy Attorney General
3 ARTHUR TAGGART,
Deputy Attorney General
4 P.O. Box 944255
Sacramento, California 94244-2550
5 Telephone: (916) 324-5339
6 Attorneys for Complainant.

7
8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the) No. AC-92-39
Accusation Against:)
12) ACCUSATION
JAMES D. SHARPE)
13 1360 Gray Avenue, #S)
Yuba City, CA 95991)
14 License No. 38745)
15 Respondent.)
16

17 Complainant Carol B. Sigmann (hereinafter
18 "Complainant") alleges as follows:

19 1. Complainant is the Executive Officer of the
20 California State Board of Accountancy ("Board") and makes and
21 files this Accusation solely in her official capacity, and in no
22 other capacity.

23 LICENSE STATUS

24 2. On or about September 23, 1983, Certified Public
25 Accountant License No. 38745 was issued by the Board to James D.
26 Sharpe ("Respondent"). Said certificate is not currently in
27 force and effect and expired on December 1, 1988.

28 3. Business and Professions Code section 5100

1 provides that the Board may revoke, suspend, or refuse to renew
2 any permit or certificate issued by the Board, or may censure the
3 holder of any such permit or certificate for unprofessional
4 conduct.

5 4. Business and Professions Code section 5100(c)
6 provides, in part, that unprofessional conduct includes, but is
7 not limited to, gross negligence in the practice of public
8 accountancy or in the performance of the bookkeeping operations
9 described in Code section 5052.

10 5. Business and Professions Code section 5107
11 provides, in part, that the Executive Officer of the Board may
12 request the administrative law judge, as part of the proposed
13 decision in a disciplinary proceeding, to direct any holder of a
14 permit or certificate found to be in violation of section 5100(c)
15 to pay to the Board all costs of investigation and prosecution of
16 the case, including, but not limited to, attorneys' fees.

17 6. Business and Professions Code section 118(b)
18 provides that the suspension, expiration, or forfeiture by
19 operation of law of a license issued by a board in the
20 department, or its suspension, forfeiture, or cancellation by
21 order of the board or by order of a court of law, or its
22 surrender without the written consent of the board, shall not,
23 during any period in which it may be renewed, restored, reissued,
24 or reinstated, deprive the board of its authority to institute or
25 continue a disciplinary proceeding against the licensee upon any
26 ground provided by law or to enter an order suspending or
27 revoking the license or otherwise taking disciplinary action
28 against the licensee on any such ground.

1 7. In or about 1984, Respondent performed an audit
2 for the City of Wheatland for the fiscal year ended June 30,
3 1984. Respondent continued to perform audits for the City of
4 Wheatland through the fiscal year ended June 30, 1988.

5 8. Sometime after the audits were completed, the
6 Office of the Controller, State of California, notified the City
7 of Wheatland that the audits performed by Respondent for the
8 fiscal years ended June 30, 1987 and June 30, 1988 were
9 deficient.

10 9. Respondent is subject to disciplinary action
11 pursuant to section 5100 of the Business and Professions Code in
12 that he has violated subsection (c) of section 5100 by committing
13 acts that individually and collectively constitute gross
14 negligence in the practice of public accountancy as more
15 particularly alleged hereinafter:

16 A. On or about November 30, 1987 and
17 September 12, 1988, Respondent issued audit reports for the City
18 of Wheatland for the fiscal years ended June 30, 1987 and
19 June 30, 1988. In these reports, Respondent stated that his
20 examinations of the balance sheets of the various funds and block
21 grant accounts as of June 5, 1987 and June 30, 1988, and the
22 related statements of revenues, expenditures, and changes in fund
23 balances, were made in accordance with generally accepted
24 auditing standards. Respondent further indicated that his
25 examination included such tests of the accounting records and
26 other such auditing procedures he considered necessary in the
27 circumstances.

28 B. Respondent was grossly negligent in the

1 preparation of the audit reports in that he failed to modify
2 those reports to state that the entity's basic financial
3 statements do not include the prescribed general purpose
4 financial statements: namely, combined balance sheets, all fund
5 types and account groups; combined statements of revenues,
6 expenditures, and changes in fund balances, all governmental fund
7 types and expendable trust funds; combined statements of
8 revenues, expenditures, and changes in fund balances -- budget
9 and actual, general and special revenue fund types.

10 C. Respondent was grossly negligent in the
11 preparation of said audit reports in that he failed to modify the
12 reports to state that the statements of revenue and expenditures
13 were not in proper format.

14 D. Respondent was grossly negligent in the
15 practice of public accountancy in that his audit reports do not
16 state that the financial statements do not include footnote
17 disclosures required under generally accepted accounting
18 principles.

19 E. Respondent was grossly negligent in the
20 practice of public accountancy in that he renders no opinions
21 regarding supplementary information, which was not properly set
22 apart from the basic financial statements.

23 F. Respondent was grossly negligent in the
24 practice of public accountancy in that he failed to prepare the
25 reports on internal control structure required under generally
26 accepted accounting principles for state and local governments
27 and under The Single Audit Act of 1984.

28 G. Respondent was grossly negligent in the

1 preparation of the audit reports in that his working papers:
2 (1) failed to document that the work was adequately planned and
3 supervised, evidencing observance of the first standard of field
4 work; (2) failed to provide sufficient competent evidential
5 matter to afford a reasonable basis for an opinion, demonstrating
6 observance of the third standard of field work.

7 WHEREFORE, Complainant requests that a hearing be held
8 on the matters alleged in the Accusation, and that following the
9 hearing, the Board issue a decision:

10 1. Revoking or suspending CPA License No. 38745,
11 heretofore issued to Respondent James D. Sharpe;

12 2. Ordering Respondent to pay to the Board all
13 reasonable costs of investigation and prosecution of this case,
14 including, but not limited to, attorneys' fees.

15 3. Taking such other and further action as the Board
16 deems appropriate to protect the public health, safety and
17 welfare.

18
19 Dated: *September 29, 1993*

Carol B. Sigmann
CAROL B. SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

JDS-PET036

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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. AC-92-39
Against:)	
JAMES D. SHARPE)	DEFAULT DECISION
P.O. Box 1562)	
Marysville, CA 95901)	
License No. 38745,)	
Respondent.)	

Respondent James D. Sharpe, having been served with the Accusation, Statement to Respondent, and Notice of defense form as provided by Government Code sections 11503 and 11505, and having failed to file a Notice of defense within the time allowed by section 11506 of said Code, and the default of said Respondent having been duly noted, the Board of Accountancy has determined that Respondent has waived his rights to a hearing to contest the merits of said Accusation, that Respondent is in default, and that this agency will take action on the Accusation and evidence herein without a hearing, and makes the following findings of fact:

FINDINGS OF FACT

1. The Accusation was made and filed by Carol B. Sigmann in her official capacity as Executive Officer, Board of Accountancy, Department of Consumer Affairs, State of California.
2. On September 23, 1983, the Board of Accountancy issued certified public accountant license No. 38745 to James D. Sharpe. The license expired December 1, 1988, and is not currently in full force and effect.

JDS-PET037

1 3. Respondent filed no Notice of Defense at any time.

2 4. In or about 1984, Respondent performed an audit
3 for the City of Wheatland for the fiscal year ended June 30,
4 1984. Respondent continued to perform audits for the City of
5 Wheatland through the fiscal year ended June 30, 1988.

6 5. Sometime after the audits were completed, the
7 Office of the Controller, State of California, notified the City
8 of Wheatland that the audits performed by Respondent for the
9 fiscal years ended June 30, 1987 and June 30, 1988 were
10 deficient.

11 6. Respondent is subject to disciplinary action
12 pursuant to section 5100 of the Business and Professions Code in
13 that he has violated subsection (c) of section 5100 by committing
14 acts that individually and collectively constitute gross
15 negligence in the practice of public accountancy as more
16 particularly alleged hereinafter:

17 A. On or about November 30, 1987 and
18 September 12, 1988, Respondent issued audit reports for the City
19 of Wheatland for the fiscal years ended June 30, 1987 and
20 June 30, 1988. In these reports, Respondent stated that his
21 examinations of the balance sheets of the various funds and block
22 grant accounts as of June 5, 1987 and June 30, 1988, and the
23 related statements of revenues, expenditures, and changes in fund
24 balances, were made in accordance with generally accepted
25 auditing standards. Respondent further indicated that his
26 examination included such tests of the accounting records and
27 other such auditing procedures he considered necessary in the
28 circumstances.

JDS-PET038

1 B. Respondent was grossly negligent in the
2 preparation of the audit reports in that he failed to modify
3 those reports to state that the entity's basic financial
4 statements do not include the prescribed general purpose
5 financial statements: namely, combined balance sheets, all fund
6 types and account groups; combined statements of revenues,
7 expenditures, and changes in fund balances, all governmental fund
8 types and expendable trust funds; combined statements of
9 revenues, expenditures, and changes in fund balances -- budget
10 and actual, general and special revenue fund types.

11 C. Respondent was grossly negligent in the
12 preparation of said audit reports in that he failed to modify the
13 reports to state that the statements of revenue and expenditures
14 were not in proper format.

15 D. Respondent was grossly negligent in the
16 practice of public accountancy in that his audit reports do not
17 state that the financial statements do not include footnote
18 disclosures required under generally accepted accounting
19 principles.

20 E. Respondent was grossly negligent in the
21 practice of public accountancy in that he renders no opinions
22 regarding supplementary information, which was not properly set
23 apart from the basic financial statements.

24 F. Respondent was grossly negligent in the
25 practice of public accountancy in that he failed to prepare the
26 reports on internal control structure required under generally
27 accepted accounting principles for state and local governments
28 and under The Single Audit Act of 1984.

1 G. Respondent was grossly negligent in the
2 preparation of the audit reports in that his working papers:
3 (1) failed to document that the work was adequately planned and
4 supervised, evidencing observance of the first standard of field
5 work; (2) failed to provide sufficient competent evidential
6 matter to afford a reasonable basis for an opinion, demonstrating
7 observance of the third standard of field work.

8 DETERMINATION OF ISSUES

9 1. The Board of Accountancy has jurisdiction to
10 proceed in this matter pursuant to Business and Professions Code
11 section 118(b).

12 2. Based upon the foregoing Findings of Fact,
13 Respondent has subjected his license to discipline under Business
14 and Professions Code section 5100(c) by committing acts that
15 individually and collectively constitute gross negligence in the
16 practice of public accountancy.

17 ORDER

18 WHEREFORE, the Board of Accountancy issues an order
19 revoking certified public accountant license number 38745 issued
20 to James D. Sharpe. Said order is based on the violations set
21 forth in paragraph 4, 5, 6, taken individually and
22 collectively.

23 Respondent shall not be deprived of making any further
24 showing by way of mitigation. However, such showing must be made

25 / / /

26 / / /

27 / / /

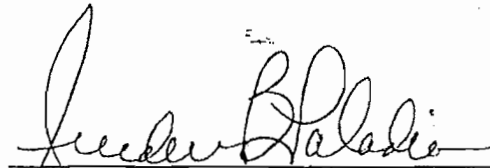
JDS-PET040

28

1 to the Board of Accountancy prior to the effective date of this
2 decision.

3 This decision shall become effective on the 16th day
4 of March, 1994.

5 Dated and signed this 14th day of February,
6 1994.

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8 

9 PRESIDENT
10 Board of Accountancy
11 Department of Consumer Affairs
12 State of California
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JDS-PET041



STATE OF CALIFORNIA)
) ss.
DEPARTMENT OF CONSUMER AFFAIRS)

I, Paul Fisher, hereby certify that I am the Supervising Investigative CPA of the Enforcement Division of the California Board of Accountancy, Department of Consumer Affairs, State of California, and in that capacity, share in maintaining control and custody of files and records dealing with and pertaining to the duties and responsibilities of said Board. On December 14, 2010, I made or caused to be made a diligent search of the aforesaid files and records concerning the certification and license history of JAMES DONALD SHARPE. I determined that the official records prepared by various persons employed by the California Board of Accountancy, acting within the scope of their duties, show the following license history of JAMES DONALD SHARPE.


1. Certificate number 38745 (Certified Public Accountant) was issued to JAMES DONALD SHARPE on September 23, 1983, by the state of California.
2. The certificate was subject to renewal every two years pursuant to California Business and Professions Code Section 5070.5. The applicable renewal period for this certificate began December 1 of even-numbered years.
3. The Board of Accountancy's licensing records were transferred to the Department of Consumer Affairs' centralized computer system in March 1989. As a result, the underlying documentation related to license history prior to that date is unavailable. The computerized records reflect that in March 1989 the license was expired and was not valid for the following reasons:
 - a) the renewal fee required by California Business and Professions Code Section 5070.5 was not paid; and
 - b) declaration of compliance with continuing education requirements was not submitted.
4. Charges of unprofessional conduct were filed against JAMES DONALD SHARPE by the California Board of Accountancy in Accusation No. AC-92-39, dated September 29, 1993. On March 16, 1994, the California Board of Accountancy's Decision in this matter became effective, and Certified Public Accountant No. 38745 issued to JAMES DONALD SHARPE was revoked.

5. The last address of record for JAMES DONALD SHARPE, Certificate number CPA 38745, as appearing in the records of the California Board of Accountancy, in conformance with California Code of Regulations, Title 16, Chapter 1, Section 3, is:

JAMES DONALD SHARPE
3315 La Mantia Drive
Yuba City, CA 95993

6. The California Board of Accountancy has not adopted a regulation authorizing intervention.

This certification is made pursuant to Evidence Code Section 1280 and the authority conferred upon me by the California Board of Accountancy.



PAUL FISHER
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

December 14, 2010

JDS-PET043

Memorandum

CBA Agenda Item XI.B.
January 27-28, 2011

To : Patti Bowers, Executive Officer
CBA Members

Date : January 20, 2011

Telephone : (916) 561-1728

Facsimile : (916) 263-3673

E-mail : msantaga@cba.ca.gov

From : 
Michele Santaga
Enforcement Analyst

Subject : **SHARPE, JAMES DONALD – Case No. SI-2011-7**
Petition for Reinstatement of Revoked Certificate
Certificate No. 38745

Attached is a copy of the Certificates of Completion for the following continuing professional education courses completed by Mr. Sharpe.

- Ethics for CPAs – 4 hours
- Ethics for California CPAs – 4 hours

Please add these certificates to Mr. Sharpe's petition package.

Thank you.

mls

Enclosures

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Ethics for CPAs - 4 hr.**

Course No: **ETH-10-0050**

Recommended Number of CPE Credits: **4.00**

Course Categories: **Regulatory Ethics**

Course Method: **Interactive Self Study**

Date: **Thursday, January 13, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET051

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Ethics for California CPAs**

Course No: **ETH-10-0027**

Recommended Number of CPE Credits: **4.00**

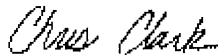
Course Categories: **Regulatory Ethics**

Course Method: **Interactive Self Study**

Date: **Thursday, January 13, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**
Illinois Department of Professional Regulation Provider Number: **158-002100**
New Jersey State Board of Accountancy Provider Number #: **1918**
Texas State Board of Public Accountancy Sponsor ID: **008924**
Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**
Accountancy Board of Ohio Sponsor ID: **CPE.53**
Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

Memorandum

CBA Agenda Item XI.B.
January 27-28, 2011

To : Patti Bowers, Executive Officer
CBA Members

Date : January 24, 2011

Telephone : (916) 561-1728

Facsimile : (916) 263-3673

E-mail : msantaga@cba.ca.gov

From : 
Michele Santaga
Enforcement Analyst

Subject : **SHARPE, JAMES DONALD – Case No. SI-2011-7**
Petition for Reinstatement of Revoked Certificate
Certificate No. 38745

Attached are copies of the Certificates of Completion for the following continuing professional education courses completed by Mr. Sharpe.

- Partnership Taxation
- Tax Resolution: Solving IRS Problems
- XBRL: Revolutionizing Financial Reporting

Please add these certificates to Mr. Sharpe's petition package.

To date, Mr. Sharpe has submitted evidence of completion of 231 hours of continuing education in the following areas.

Completed in 2005 (28 hours)

- 28 hours in accounting and auditing.

Completed in 2010 (129 hours)

- 83 hours in accounting and auditing.
- 44 hours in tax.
- 2 hours in technical subject matter.

Completed in 2011 (74 hours)

- 8 hours in ethics.
- 63 hours in tax.
- 3 hours in technical subject matter.

Thank you.

mls



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



TO WHOM IT MAY CONCERN:

The undersigned shares in the custody and control of the files and records of this agency and hereby certifies that the attached document is a true and correct copy of the original or the original copy of the verification of completion for the following continuing professional education course for JAMES SHARPE contained in the files of this office, and said documents were received in the normal course of business.

- Partnership Taxation
- Tax Resolution: Solving IRS Problems
- XBRL: Revolutionizing Financial Reporting

A handwritten signature in cursive script that reads 'Paul Fisher'. The signature is written in dark ink and is positioned above a horizontal line.

Paul Fisher
Supervising Investigative CPA
Enforcement Division
California Board of Accountancy
Department of Consumer Affairs
State of California

January 24, 2011

JDS-PET057

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented to: **James Sharpe**
38745 CPA - California Board of Accountancy

For successfully completing: **Partnership Taxation**

Course No: **TAX-10-0030**

Recommended Number of CPE Credits: **24.00**

Course Categories: **Taxation (24.00 credits)**

Course Method: **Interactive Self Study**

Date: **Thursday, January 20, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET058

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented
to:

James Sharpe

38745 CPA - California Board of
Accountancy

For successfully completing: **Tax Resolution: Solving IRS Problems**

Course No: **TAX-10-0011**

Recommended Number of CPE Credits: **12.00**

Course Categories: **Taxation**

Course Method: **Interactive Self Study**

Date: **Monday, January 24, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



Chris Clark, President

JDS-PET059

Certificate of Completion

CPE Depot
Linked Circles, Inc.
1 Sierra Gate
Suite 210A
Roseville, CA 95678
(916) 789-9510

This certificate is presented
to:

James Sharpe

38745 CPA - California Board of
Accountancy

For successfully completing: **XBRL: Revolutionizing Financial
Reporting**

Course No: **CS-10-0005**

Recommended Number of CPE Credits: **3.00**

Course Categories: **Specialized Knowledge & Applications
Computer Science**

Course Method: **Interactive Self Study**

Date: **Friday, January 21, 2011**

CPE credits have been based on a 50 minute hour.

New York State Sponsor License #: **001945**

Illinois Department of Professional Regulation Provider Number: **158-002100**

New Jersey State Board of Accountancy Provider Number #: **1918**

Texas State Board of Public Accountancy Sponsor ID: **008924**

Pennsylvania State Board of Accountancy Sponsor ID: **PX-177527**

Accountancy Board of Ohio Sponsor ID: **CPE.53**

Office of Professional Responsibility, Internal Revenue Service: **Sponsor No. 9**



JDS-PET060

Memorandum

CBA Agenda Item XII.F.2.
January 27-28, 2011

To : CBA Members

Date: January 10, 2011
Telephone : (916) 561-1718
Facsimile : (916) 263-3674

From : Nancy Corrigan, Chair
Peer Review Oversight Committee

Subject : AICPA Peer Review Exposure Draft, June 1, 2010

At its September 22-23, 2010 meeting, the California Board of Accountancy (CBA) referred the AICPA Peer Review Exposure Draft, June 1, 2010 (**Attachment 1**), to the Peer Review Oversight Committee (PROC) for comments.

The PROC assigned this task to a subcommittee at its November 9, 2010 meeting. The subcommittee reviewed the Exposure Draft and has provided responses to each of the revisions of the *Standards for Performing and Reporting on Peer Reviews* in the attached memorandum, dated December 12, 2010 (**Attachment 2**).

The PROC will discuss the subcommittee's response on January 20, 2011. I anticipate that the PROC will adopt the subcommittee's response to the Exposure Draft. With this in mind, a letter of support from the CBA to the AICPA has been prepared for adoption by the CBA (**Attachment 3**).

I will be available at the meeting to provide updates from the PROC meeting and to answer any questions concerning this issue.

Attachments

EXPOSURE DRAFT

PROPOSED REVISIONS TO THE AICPA STANDARDS FOR PERFORMING AND REPORTING ON PEER REVIEWS:

Performing and Reporting on Peer Reviews of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs

June 1, 2010

**Prepared by the AICPA Peer Review Board for comment
from persons interested in the AICPA Peer Review Program**

**Comments should be received by August 31, 2010 and addressed to
LaShaun King, Technical Manager
AICPA Peer Review Program
American Institute of Certified Public Accountants
220 Leigh Farm Road, Durham, NC 27707-8110
or via the Internet to PR_expdraft@aicpa.org**

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Permission is granted to make copies of this work provided that such copies are for personal, intraorganizational, or educational use only and are not sold or disseminated and provided further that each copy bears the following credit line: "Copyright © 2010 by American Institute of Certified Public Accountants, Inc. Used with permission."

June 1, 2010

This exposure draft has been approved for issuance by the AICPA Peer Review Board, and contains proposals for review and comment by the AICPA's membership and other interested parties regarding revisions to the *Standards for Performing and Reporting on Peer Reviews* and related *Interpretations*. Changes to the *Interpretations* are developed and discussed in open Board meetings and do not require exposure for public comment; however, changes to the applicable *Interpretations* have been included here for review and comment as they provide clarification of revisions within the *Standards* that are a part of this exposure draft.

Written comments or suggestions on any aspect of this exposure draft will be appreciated. To facilitate the Board's consideration, comments or suggestions should refer to the specific paragraphs and include supporting reasons for each comment or suggestion. Please limit your comments to those items presented in the exposure draft. Comments and responses should be sent to LaShaun King, Technical Manager, AICPA Peer Review Program, AICPA, 220 Leigh Farm Road, Durham, NC 27707-8110 and must be received by August 31, 2010. Electronic submissions of comments or suggestions in Microsoft Word should be sent to PR_expdraft@aicpa.org by August 31, 2010.

Written comments on the exposure draft will become part of the public record of the AICPA Peer Review Program and will be available for public inspection at the offices of the AICPA after August 31, 2010 for a period of one year.

The exposure draft includes an explanatory memorandum of the proposed revisions to the current *Standards* and *Interpretations*, explanations, background and other pertinent information, as well as marked excerpts from the current *Standards* and *Interpretations* to allow the reader to see all changes (i.e. items that are being deleted from the *Standards* are struck through, and new items are underlined).

A copy of this exposure draft and the current *Standards* (effective for peer reviews commencing on or after January 1, 2009) are also available on the AICPA Peer Review Web site at <http://www.aicpa.org/InterestAreas/PeerReview/Pages/PeerReviewHome.aspx>.

Sincerely,

Dan Hevia

Dan Hevia
Chair
AICPA Peer Review Board

Gary Freundlich

Gary Freundlich
Technical Director
AICPA Peer Review Program

**AICPA Peer Review Board
2009 - 2010**

Daniel J. Hevia, Chair*
Tracey C. Golden, Vice Chair*
Robert Christian Bezgin
Robert K. Bowen
Betty Jo Charles
J. Phillip Coley
Jerry Cross*
Jake D. Dunton*
Jerry W. Hensley
Clayton Lynn Holt
Scott Frew

G. William Graham*
Janice L. Gray*
James N. Kennedy
Thomas P. Kirwin
John J. Lucas
Richard L. Miller
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2009-2010**

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Explanatory Memorandum

Introduction

There has been growing public interest in the process used to evaluate quality control materials (QCM) and continuing professional education (CPE) programs. The AICPA Peer Review Board (PRB) delegated to the National Peer Review Committee (NPRC) the responsibility for the administration of QCM and CPE peer reviews. In response to the public interest, the NPRC formed the QCM and CPE Programs Task Force which, among other things, evaluates and determines the need for enhancements to the guidance related to QCM and CPE peer reviews, including relevant portions of the *Standards for Performing and Reporting on Peer Reviews* and related *Interpretations* (collectively "*Standards*").

Through feedback from various stakeholders, the task force identified necessary revisions to the *Standards* related to independence and scope considerations. The PRB's Standards Task Force agreed with the need to revise the *Standards*, and recommended this exposure draft to the PRB for consideration. The PRB has approved and issued this exposure draft to propose those revisions to the *Standards*. The proposed revisions contained in this exposure draft are limited to the issues raised herein.

This proposal:

1. Revises and clarifies the guidance for those involved in the development and maintenance of QCM or CPE programs such that they are not permitted to serve on review teams to peer review firms that use those QCM or CPE programs (*user firms*). This impacts firms that develop and maintain QCM or CPE programs (*provider firms*) as well as an association of CPA firms that develop and maintain QCM or CPE programs (*provider association*).
2. Removes the provision requiring providers to undergo a triennial peer review of the system to develop and maintain QCM or CPE programs, and the resultant materials. However, providers can still elect to undergo such a review voluntarily. This is applicable for provider firms as well as provider associations.
3. Revises the procedures for performing a CPE program peer review for those providers that elect to undergo such a review. There are no changes proposed to the procedures for performing a QCM peer review, although some clarifications to those procedures are included.

Explanation of Changes to Existing Standards

1. Revises and clarifies the guidance for those involved in the development and maintenance of QCM or CPE programs such that they are not permitted to serve on review teams to peer review firms that use those QCM or CPE programs (user firms).

The PRB recognizes the significance of QCM and CPE program peer reviews, particularly those that are widely utilized by many CPA firms. Such materials usually encompass a large portion of firms' systems of quality control. The current *Standards* contain detailed guidance related to the performance of and reporting for QCM and CPE program peer reviews. That guidance discusses which types of providers are required to undergo peer reviews of their systems and materials or programs, how these types of reviews are performed and reported on, and independence concerns with respect to the review team. The PRB has revisited that guidance to evaluate whether the provisions it contains are aligned with the overall nature and objectives of the Peer Review Program.

As a result of this examination, the PRB determined that certain changes and revisions were warranted. The primary concern was clarifying the stance on independence and objectivity with respect to providers of QCM and CPE programs by making revisions to the guidance explaining who may serve on the peer review team of a user firm undergoing its triennial peer review.

Any person that is involved in the development or maintenance of a provider's QCM or CPE programs has an interest in a user firm. Because of the nature of QCM and CPE programs, a provider's success relies in part on the success of firms that use the provider's materials; by extension, the provider becomes a part of the user firm's system of quality control. Someone who participated in the development or maintenance of the materials or programs also becomes a part of the user firm's system of quality control. Further, the relationship between a provider and a user firm creates a conflict of interest with respect to the user firm, both in terms of the successfulness of the user firm and the economic dependency that a provider (and by extension, someone that is a part of the provider's system of quality control) has on its user firms. For peer review purposes, this becomes an issue when someone that is a part of the provider's system of quality control is also a peer reviewer that participates on the review team to peer review a user firm. The *Standards* define independence and objectivity in paragraph 22, stating that "the reviewing firm, the review team, and any other individuals who participate on the peer review should be free from an obligation to, or interest in, the reviewed firm or its personnel." With respect to objectivity, paragraph 22 further states "the principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest."

This issue is already recognized in Interpretation 21-1, which addresses the independence impact when a peer reviewer, for example, performs a firm's preissuance reviews or internal inspection. From a peer review independence standpoint, those types of situations are remedied by ensuring they do not occur either in the year immediately preceding or the year of peer review. However, there isn't an adequate remedy to restore independence for a reviewer involved in the development or maintenance of QCM or CPE programs used by a firm subject to review. The current guidance attempted a remedy by requiring certain types of providers to undergo a triennial peer review of their system of quality control to develop and maintain the QCM and/or CPE programs, and the resulting materials or programs. However, having such a review does not remove the potential for a lack of objectivity in fact and/or appearance on the part of a peer reviewer that is also a part of the provider's

system of quality control. The PRB concluded that the consequence of allowing a peer reviewer that is also a part of the provider's system of quality control to peer review a user firm conflicts with a peer reviewer maintaining the independence, integrity and objectivity that the *Standards* embody. This was not the intent of the PRB. The proposed revisions would conform the guidance to the underlying intent of paragraphs 21 – 22 of the *Standards*. These revisions will apply to both provider firms and provider associations.

The proposed revisions would preclude any personnel from a provider firm from participating on the review team of a firm that uses QCM or CPE programs that provider firm developed, regardless of whether the review team is formed by a different reviewing firm or by an association (association formed review team). In addition, the proposed revisions would preclude any personnel from an association member firm that participated in the development or maintenance of the association's QCM or CPE programs from serving on the review team of a firm that uses the association's QCM or CPE programs, regardless of whether the review team is formed by a different reviewing firm or by the association. In other words, a provider firm or a firm affiliated to a provider (whether a firm or association) that assisted with the development or maintenance of the materials or programs cannot participate on the peer review team of a firm that uses the materials as an integral part of its system of quality control. Further, CPA owners of a provider (whether a firm or another entity) that are also peer reviewers cannot participate on the review team of a user firm.

While the PRB has reached the above conclusions based on the information it currently has, it is still open to the viewpoints of peer review stakeholders. The PRB has developed questions that follow later in this document to which interested parties are asked to provide responses.

The proposed change affects paragraphs 156, 159, 160, and 164 of the *Standards*. It also affects Interpretations 21-1, 21-7 and 21-9.

2. Removal of the requirements for providers to undergo triennial peer reviews of the system to develop and maintain QCM or CPE programs, and of the resultant materials.

The original intent of requiring peer reviews for certain classes of providers was to mitigate potential independence impairments. Provider firms were required to undergo peer reviews of their system to develop and maintain QCM or CPE programs, and the resultant materials or programs, in order to remove potential independence concerns if the provider firm wished to peer review a user firm. Similarly, provider associations were required to undergo peer reviews of their system and resultant materials or programs to remove independence concerns amongst its member firms if those firms chose to peer review each other or if the association formed review teams. As the proposed revisions clarifies the PRB's stance on independence and objectivity with respect to these types of reviews, there was no reason to continue to require either class of provider to submit to triennial QCM or CPE program peer reviews. Instead, providers may voluntarily elect to undergo QCM or CPE program peer reviews to provide reasonable assurance to user firms that the system to develop QCM or CPE programs are reliable aids to assist them in conforming to those professional standards the materials purport to encompass, and so that peer reviewers of user firms can place reliance on the QCM or CPE program peer review to reduce the scope of planning procedures in certain situations (which includes a review of the firm's QCM or CPE programs, among other procedures).

The proposed change affects *Standards* paragraphs 159 and 160.

3. Revises the procedures for performing a CPE program peer review for those providers that elect to undergo such a review.

A CPE program is intended to increase or maintain the proficiency of an individual. The majority of CPE programs are presented as classes offered live or via the internet, with a course instructor that verbally provides much of the needed information. Any aids that are developed and used as a part of a CPE program are intended for use or reference during the CPE program, and generally cannot be used as a stand-alone aid absent the instruction or lecture it's meant to accompany. These aids can range from being very general and short to specific and lengthy. Therefore, a key component of any CPE program is the information and guidance provided by the course instructor. The delivery of information is an important difference between CPE programs and QCM (which are generally intended to be stand-alone aids for their specified purposes).

The *Standards* do not address the instruction component of CPE programs. However, they do currently require the peer reviewer to evaluate and opine on the system to develop and maintain the CPE programs and the resultant aids. The PRB considered how users rely on peer review reports of CPE programs, and whether any further reliance is gained because the report opines on both the system to develop and maintain CPE programs and the resultant CPE program aids, absent of the accompanying instruction. The PRB determined that since the instruction component of a CPE program is key to the program as a whole, users of CPE program peer review reports are not served by an opinion on the program aids alone. Further, there is no practical and efficient way that the instruction component (which is often provided verbally) can be appropriately evaluated and opined upon. Yet, a peer reviewer can evaluate and opine on the system in place to develop and maintain the CPE program, which would include evaluating the provider's process for ensuring that the appropriate information is gathered and ultimately delivered to CPE program participants. As a result, the PRB determined that the report for CPE programs should be revised to only opine on the system to develop and maintain the CPE programs, and that the peer review procedures in the *Standards* performed in support of the report should similarly be revised so that the procedures focus on the system.

The proposed revisions would result in separate yet similar procedures for peer reviews of CPE programs as compared to peer reviews of QCM. The procedures for peer reviews of QCM will continue to focus on both the system to develop and maintain the materials, and the resultant aids. The procedures for peer reviews of CPE programs will focus on the system to develop and maintain the programs; any review of aids or materials designed to be used during the program will be encompassed in the evaluation of the system and whether it was suitably designed and complied with during the period under review. The proposed revisions will also result in different report language for opining on peer reviews of CPE programs as compared to peer reviews of QCM.

The proposed change affects *Standards* paragraphs 156, 158 – 160, 166, and 168 – 173, and renumbers the paragraphs beginning with 170.

4. Other Changes

There are additional revisions throughout paragraphs 154 – 182 (as renumbered) of the *Standards* to provide clarification consistent with current practices to perform these types of reviews, fix minor

grammar errors, and correct inconsistencies between these paragraphs and the remainder of the *Standards*.

Guide for Respondents

The PRB is seeking comments specifically on the peer review relationship described in paragraph 159 of the *Standards* and whether there are any potential conflicts with the guidance provided in paragraphs 21 and 22 and related *Interpretations*. Respondents are asked to specifically respond to the following questions:

1. Do you believe that the peer review relationship currently permitted by paragraph 159 is appropriate (e.g. if Firm A develops and markets QCM or CPE programs that has been independently peer reviewed and Firm B uses those materials or programs, is it appropriate for Firm A to perform the peer review of Firm B)?
2. Are there any independence concerns that arise as a result of the peer review relationship currently permitted by paragraph 159?
 - a) If no, please explain why you do not have any independence concerns.
 - b) If yes, please list your concerns and discuss whether you believe they represent an impairment of independence in fact, appearance, or both.
 - c) If yes, do the proposed revisions appropriately address your independence concerns?
3. Do you believe that the proposed revisions are necessary to serve the main goal of the AICPA Peer Review Program (promoting quality in the accounting and auditing services provided by AICPA members and their CPA firms in order to serve the public interest and enhance the significance of AICPA membership)?
4. Is it more appropriate to have safeguards instead of prohibition? For example, using the scenario in question #1 between Firms A and B, would independence concerns be mitigated if the peer reviewers from Firm A were not involved in any way in the development or maintenance of the QCM or CPE programs? Or if there were periodic oversight of reviews performed by Firm A when the reviewed firm uses Firm A's materials or programs? Please provide your suggestions as to any appropriate safeguards you believe mitigate independence concerns.
5. If the proposed revisions are implemented, do you believe there will be a negative impact on your firm's ability to obtain QCM or CPE programs and/or ability to find qualified peer reviewers?

Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, where appropriate, make specific suggestions for any proposed changes to wording.

When a respondent agrees with proposals in the exposure draft, it will be helpful for the PRB to be made aware of this view and the reasons for agreement.

Please limit any submitted comments to the items presented within this exposure draft.

Written comments on the exposure draft will become part of the public record of the AICPA and will be available for public inspection at the offices of the AICPA after August 31, 2010, for one year. Responses should be sent to LaShaun King at PR_expdraft@aicpa.org and received by August 31, 2010.

Comment Period

The comment period for this exposure draft ends on August 31, 2010.

Effective Date

Unlike previous revisions to the *Standards*, the effective date for the revisions related to the removal of the provisions 1) allowing provider firms to peer review user firms and 2) requiring provider firms to undergo triennial peer reviews is based on the scheduling date (instead of commencement date). This was done to avoid unfairly impacting those firms that use QCM or CPE programs and have potentially engaged peer reviewers that the revisions prohibit from being able to perform those peer reviews in the future.

After exposure and consideration of the comments received, revisions to the *Standards* that are adopted will be effective for peer reviews scheduled on or after November 1, 2010, with the exception of the revisions to the procedures for performing CPE peer reviews (item 3 above), which are effective immediately upon issuance of the revised *Standards*.

Proposed Revisions to the Peer Review Standards

Performing and Reporting on Peer Reviews of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs

Introduction

.154 Quality control materials (QCM) are materials that are suitable for adoption by a firm as an integral part of that firm's system of quality control. Such materials provide guidance to assist firms in performing and reporting in conformity with professional standards and may include, but are not limited to, such items as:

a. Engagement aids, including accounting and auditing manuals, checklists, questionnaires, work programs, computer-aided accounting and auditing tools, and similar materials intended for use by accounting and auditing engagement teams

b. Personnel manuals, inspection checklists, hiring forms, ~~and~~ client acceptance and continuance forms, and other materials related to the functional areas of quality control.

.155 Occasionally, organizations (hereinafter referred to as *providers*) may sell or otherwise distribute to CPA firms (hereinafter referred to as *user firms*) QCM that they have developed. They may also sell or distribute CPE programs that they have developed.

.156 Providers may elect voluntarily ~~or be required (see paragraph 159)~~ to have an independent review of their system of quality control for the development and maintenance of the QCM ~~or CPE programs~~ they have developed, and of the materials themselves. Providers may also elect to have an independent review of their system of quality control for the development and maintenance of the CPE programs they have developed. The reasons for having such a review include but are not limited to:

a. ~~Providing reasonable assurance~~ To provide assurance to user firms that the system used by the provider to develop and maintain QCM or CPE programs they ~~have acquired~~ is appropriately designed and complied with, and that the QCM themselves they acquire are reliable aids to assist them in conforming to those professional standards the materials purport to encompass.

b. ~~Providing~~ To provide more cost-effective peer reviews for firms that ~~acquire~~ have acquired or use such materials by allowing the peer reviewers of user firms to place reliance on the QCM or CPE review to reduce the scope of the review of the user firm's QCM or CPE programs in certain situations (see Interpretations).

c. Providing reasonable assurance

~~a. To ensure~~ that independence and objectivity on peer reviews of user firms is maintained when such peer reviews are performed by ~~providers or other~~ user firms in the same association of CPA firms.

.157 A summary of the nature, objectives, scope, limitations of, and procedures performed on QCM or CPE programs is included in appendix A.

Objectives of a Peer Review of QCM or CPE Programs

.158 The ~~objective~~ objectives of a peer review of QCM or CPE programs developed by a provider ~~is determining~~ are:

~~a. To determine~~ whether the provider's system for the development and maintenance of the QCM or the CPE programs was suitably designed and was being complied with during the period under review to provide user firms with reasonable assurance that the materials or programs are reliable aids to assist them in conforming with those professional standards the materials or programs purport to encompass.

In addition, a peer review of QCM has the further objective of determining ~~To determine~~ whether the resultant materials are reliable aids.

Applicability

.159 An independent review of the system for the development and maintenance of QCM or CPE programs ~~(and the resultant materials (the QCM peer review or CPE programs peer review) and the resultant materials (QCM peer review only) is voluntary required for all providers. The following classes of providers include: :~~

a. A firm providing QCM or CPE programs to other firms ~~another firm for which the provider firm will perform the peer review~~

b. An association of CPA firms providing QCM or CPE programs

c. A third party organization that provides QCM or CPE programs as firms' provider ~~when a primary function of its business user firm in the association will perform a peer review of another user firm in the association~~

.160 A provider of QCM or CPE programs ~~that voluntarily elects to have such a review falling into either of these categories should consult with the National PRC. A have a QCM or CPE review should ordinarily occur once every three years, be and should arrange to have such a peer review administered by the National PRC, and be performed in accordance with these standards. In the event of substantial change in the system for the development and maintenance of the materials or in the resultant materials, the provider should consult with the National PRC to determine whether an accelerated peer review is warranted.~~

.161 ~~Providers Any other provider of QCM or CPE programs that voluntarily elects to have a peer QCM or CPE review under performed in accordance with these standards must comply with all provisions should also consult with the National PRC. A provider may have a review voluntarily so that peer reviewers of user firms can place reliance on the QCM or CPE review to reduce the scope of the review of the firm's QCM or CPE programs.~~

.162 A QCM or CPE review under these standards may not include materials relating to audits of SEC issuers performed pursuant to the standards of the PCAOB.

.163 All providers that plan to have a QCM or CPE review performed in accordance with these standards must notify the National PRC in advance of that review so that the review team can be approved and the review ~~it~~ can be appropriately scheduled. Once ~~If~~ a QCM or CPE review has commenced, providers must also notify the National PRC before a review is terminated prior to completion.

Qualifications for Serving as QCM or CPE Peer Reviewers

.164 A QCM or CPE review team may be formed by a firm engaged by the provider under review or an association of CPA firms authorized by the board to assist its members in forming review teams (an association formed review team). Peer reviews of association QCM or CPE programs may not be performed by a member of the association whose materials or programs are being reviewed. The QCM or CPE review team is not considered qualified until approved by the NPRC. Furthermore, the National PRC will not appoint to the QCM or CPE review team a person with a firm that is a member of the association or a person or firm that may have a conflict of interest with respect to the QCM or CPE review, such as someone who assisted in the development or review of such materials, or uses the materials as an integral part of their the firm's system of quality control (see Interpretations). Final approval of QCM or CPE review teams is at the NPRC's discretion.

.165 A QCM or CPE reviewer shall possess the qualifications set forth in the paragraphs under "Organizing the System or Engagement Review Team" and "Qualifying for Service as a Peer Reviewer" (see paragraphs 26-35).

Procedures for Performing QCM Provider ~~or CPE~~ Reviews

~~.166 The provider should identify the materials subject, whether QCM or CPE program materials, to review be reviewed and covered by them which an opinion is to be expressed. A QCM or CPE review should include a study and evaluation of the system for the development and maintenance of the QCM or CPE program that have been identified and a review of the materials themselves. Where not otherwise addressed in the following list, the peer reviewer should refer to the guidance for performing and reporting on System Reviews (see paragraphs 36–101) and accepting System and Engagement Reviews (see paragraphs 132–140) for additional guidance on performing, reporting on, and accepting QCM and CPE reviews.~~

.167 A provider's system for the development and maintenance of the materials normally should include:

- a. A requirement that the materials be developed by individuals qualified in the subject matter.
- b. A requirement that the materials be reviewed for technical accuracy by a qualified person(s) other than the developer(s) to ensure that the materials are reliable aids to assist users in conforming to those professional standards the materials purport to encompass.
- c. Procedures to ensure the currency and relevancy of the materials.
- d. Procedures for soliciting and evaluating feedback from users of the materials.
- e. Procedures for communicating the period and, where appropriate, the professional standards encompassed by the materials, and the provider's policy, if any, regarding the issuance of updates to the materials and, if a policy exists, the method of updating.
- f. Procedures for ensuring that the materials are updated in accordance with the provider's policy when it has undertaken to update them.

.168 A study and evaluation of the system for the development and maintenance of the materials normally should include the following procedures:

- a. Reviewing and evaluating the procedures established for developing and maintaining the materials.
- b. Reviewing and evaluating the procedures established for updating (including distributing) the materials to ensure that the materials remain current and relevant when the provider has undertaken the responsibility for updating the materials, ~~(and for communicating any relevant changes in professional standards to program participants if new professional standards are issued prior to updating the CPE programs).~~
- c. Reviewing the technical competence of the developer(s) or updater(s) of the materials.
- d. Obtaining evidence that the materials were reviewed for technical accuracy by qualified person(s) other than the developer(s) or updater(s).
- e. Determining whether the provider has appropriately communicated its policy regarding the period covered by the materials, the professional standards the materials purport to encompass, and the provider's intention to update the materials.
- f. Reviewing the system developed for soliciting and evaluating feedback from users of the materials.

.169 The scope of the A QCM peer or CPE review includes all of them should review the resultant materials covered in, to the opinion extent deemed necessary, to evaluate whether the materials are reliable aids to assist firms in conforming to those professional standards the materials purport to encompass. The extent to which individual manuals, guides, checklists, etc. are reviewed is subject to the peer review team's judgment and should be documented in the risk assessment.

Procedures for Performing CPE Provider Reviews

.170 A CPE review should include a study and evaluation of the system for the development and maintenance of the CPE programs. Where not otherwise addressed in the following list, the peer reviewer should refer to the guidance for performing and reporting on System Reviews (see paragraphs 36–101) and accepting System and Engagement Reviews (see paragraphs 132–140) for additional guidance on performing, reporting on, and accepting CPE reviews.

.171 A provider's system for the development and maintenance of the programs normally should include:

- a. A requirement that the programs be developed by individuals qualified in the subject matter.
- b. A requirement that the programs be reviewed for technical accuracy by a qualified person(s) other than the developer(s) to ensure that the programs are reliable aids to assist users in conforming to those professional standards the programs purport to encompass.
- c. Procedures to ensure the currency and relevancy of the programs.
- d. Procedures for soliciting and evaluating feedback from users of the programs.
- e. Procedures for communicating the period and the professional standards encompassed by the programs (and for communicating any relevant changes in professional standards to program participants if new professional standards are issued prior to revising the CPE programs).
- f. Procedures to ensure that instructors are qualified with respect to the program content and subject matter, and to evaluate the instructor's performance on a periodic basis.

.172 A study and evaluation of the system for the development and maintenance of the programs normally should include the following procedures:

- a. Reviewing and evaluating the procedures established for developing and maintaining the programs.
- b. Reviewing and evaluating the procedures established to ensure the programs are current and relevant.
- c. Reviewing the technical competence of the programs' developer(s).
- d. Obtaining evidence that the programs were reviewed for technical accuracy by qualified person(s) other than the developer(s).
- e. Determining whether the provider has appropriately communicated its policy regarding the period covered by the programs and the professional standards they purport to encompass.
- f. Reviewing the system developed for soliciting and evaluating feedback from users.
- g. Reviewing the technical competence and qualifications of the program instructors.

.173 A CPE review team should make a risk-based selection of programs offered during the year and review them, to the extent deemed necessary, to evaluate whether the system to develop and maintain the CPE programs was complied with by determining that the CPE programs selected are an accurate reflection of the professional standards the programs purport to encompass, in all material respects. The extent to which individual manuals, guides, checklists, etc. are reviewed is subject to the peer review team's judgment and should be documented in the risk assessment.

Reporting on QCM or CPE Reviews

General

~~.174170~~ The QCM or CPE review team should furnish the provider with a written report and the final FFC forms within 30 days of the date of the exit conference or by the provider's review due date, whichever is earlier. A report on a review performed by a firm is to be issued on the letterhead of the firm performing the review. A report by a review team formed by an association of CPA firms is to be issued on the letterhead of the firm of the team captain performing the review. The report in a QCM or CPE review ordinarily should be dated as of the date of the exit conference. See interpretations for guidance on notification requirements and submission of peer review documentation to the administering entity.

Preparing the Report in a QCM or CPE Review

~~.175171~~ The standard forms for a peer review report on QCM ~~or CPE programs~~ with a peer review rating of *pass*, *pass with deficiencies*, and *fail* are included in appendixes R, "Illustration of a Report With a Peer Review Rating of *Pass* in a Peer Review of Quality Control Materials ~~or CPE Programs~~," S, "Illustration of a Report with a Peer Review Rating of *Pass with Deficiencies* in a Peer Review of Quality Control Materials ~~or CPE Programs~~," and T, "Illustration of a Report with a Peer Review Rating of *Fail* in a Peer Review of Quality Control Materials," respectively. The standard form for a peer review report on CPE programs with a peer review rating of *pass*, *pass with deficiencies*, and *fail* are included in appendixes U, "Illustration of a Report With a Peer Review Rating of *Pass* in a Peer Review of CPE Programs," V, "Illustration of a Report with a Peer Review Rating of *Pass with Deficiencies* in a Peer Review of CPE Programs," and W, "Illustration of a Report with a Peer Review Rating of *Fail* in a Peer Review of ~~or~~ CPE Programs," respectively. Additional paragraphs included for scope limitations follow the illustrations for System Reviews with scope limitations (see appendixes D, G, and K).

~~.176172~~ A QCM or CPE report with a rating of *pass*, *pass with deficiencies*, or *fail* shall contain elements similar to those in a System Review report. As such, the written report in a QCM or CPE System Review should:

a. State at the top of the page the title "Quality Control Materials Review Report" or "CPE Programs Review Report."

b. ~~In a QCM report, state~~State that the system of quality control for the development and maintenance of the materials and the resultant materials in effect at the year-end covered by the peer review were reviewed.

c. In a CPE report, state that the system of quality control for the development and maintenance of the programs in effect at the year-end covered by the peer review was reviewed.

c. State that the peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants.

d. State that the organization is responsible for designing a system of quality control and complying with it to provide users of the materials or programs with reasonable assurance that the materials or programs are reliable aids to assist them in performing and reporting in conformity with applicable professional standards in all material respects those professional standards that the materials or programs purport to encompass, in all material respects.

e. State that the reviewer's responsibility is to express an opinion on the design of the system of quality control and the organization's compliance therewith based on the review.

f. State that the nature, objectives, scope, limitations of, and procedures performed in a Quality Control Materials review or CPE review are described in the standards.

g. Include a URL reference to the AICPA Web site where the standards are located.

h. Identify the different peer review ratings that the provider~~organization~~ could receive.

i. In a report with a peer review rating of *pass*:

- Express an opinion that the system of quality control for the development and maintenance of the quality control materials or CPE programs~~program~~ was suitably designed and was being complied with during the

year ended to provide users of the materials or programs with reasonable assurance that the materials are reliable aids to assist them in conforming with those professional standards the materials purport to encompass.

- Express an opinion that the quality control materials ~~or CPE program~~ were reliable aids at the year-end (OCM report only).
- State at the end of the opinion paragraph that therefore the report reflects a peer review rating of *pass*.
- Include an additional paragraph, in the event of a scope limitation, ~~include an additional paragraph~~ before the opinion paragraph that describes the scope limitation, including the relationship of the excluded steps to the full system, and the affect on the scope and results of the review.
- Do not include Reports with a peer review rating of *pass* do not contain any findings, deficiencies, significant deficiencies, or recommendations.

j. In a report with a peer review rating of *pass with deficiencies*:

- Express an opinion that, except for the deficiencies described above, the system of quality control for the development and maintenance of the quality control materials or CPE ~~programs~~ program was suitably designed and was being complied with during the year ended to provide users of the materials with reasonable assurance that the materials or programs are reliable aids to assist them in conforming with those professional standards the materials purport to encompass.
- State at the end of the opinion paragraph that therefore the report reflects a peer review rating of *pass with deficiencies*.
- Include an additional paragraph, in the event of a scope limitation, ~~include an additional paragraph~~ before the deficiencies that describes the scope limitation, including the relationship of the excluded steps to the full system, and the affect on the scope and results of the review.

k. In a report with a peer review rating of *fail*:

- Express an opinion that as a result of the significant deficiencies described above, the system of quality control for the development and maintenance of the quality control materials or CPE ~~programs~~ program was not suitably designed and being complied with during the year ended to provide users of the materials with reasonable assurance that the materials or programs are reliable aids to assist them in conforming with those professional standards the materials purport to encompass.
- State at the end of the opinion paragraph that therefore the firm has received a peer review rating of *fail*.
- Include an additional paragraph, in the event of a scope limitation, ~~include an additional paragraph~~ before the significant deficiencies that describes the scope limitation, including the relationship of the excluded steps to the full system, and the affect on the scope and results of the review.

l. Include, for reports with a peer review rating of *pass with deficiencies* or *fail*, systemically written descriptions of the deficiencies or significant deficiencies and the reviewing firm's recommendations (each of these should be numbered).

m. Identify, for any deficiencies or significant deficiencies included in the report with a peer review rating of *pass with deficiencies* or *fail* any that were also made in the report²¹ issued on the organization's previous peer review. This should be determined based on the underlying systemic cause of the deficiencies or significant deficiencies.

Forming Conclusions on the Type of Report to Issue in a QCM or CPE Review

.177173 The following circumstances ordinarily would be considered deficiencies or significant deficiencies and would require a report with a peer review rating of *pass with deficiencies* or *fail*:

~~a.a. The scope of the review is limited by conditions that preclude the application of one or more review procedures considered necessary.~~

~~b. The provider's system of quality control for the development and maintenance of QCM or CPE programs, as designed, did not provide user firms with reasonable assurance that reliable aids had been developed to assist them in conforming with those professional standards the materials purport to encompass.~~

~~b.e. The degree of compliance with the provider's system of quality control for the development and maintenance of QCM or CPE programs was not sufficient to provide user firms with reasonable assurance that reliable aids had been developed to assist them in conforming with those professional standards the materials purport to encompass.~~

~~c.d. The resultant QCM or CPE programs are not reliable aids to assist user firms in conforming to those professional standards the materials purport to encompass (QCM review only).~~

.178174 In those instances in which the QCM or CPE review team determines that a report with a peer review rating of *pass with deficiencies* or *fail* is required, all the reasons should be disclosed, and the QCM or CPE review team should consult with the National PRC prior to the issuance of the report.

Provider Responses on QCM and CPE Program Reviews

.179175 If the provider receives a report with a peer review rating of *pass with deficiencies* or *fail*, then the provider should respond in writing to the deficiencies and significant deficiencies and related recommendations identified in the report, if applicable. The letter of response should be addressed to the AICPA ~~National PRC~~ Peer Review Board and should describe the action(s) planned (including timing) or taken by the provider with respect to each deficiency in the report. If the provider disagrees with one or more of the deficiencies or significant deficiencies, its response should describe the reasons for such disagreement. In the event that a material error or omission in the QCM or CPE programs is uncovered by the QCM or CPE review team, the response also should describe the provider's plan for notifying known users of that error or omission. The provider should submit the letter of response for review and comment to the team captain prior to submitting the response to the National PRC.

.180176 The provider should submit a copy of the report and its letter of response to the National PRC within 30 days of the date it received the report or by the provider's peer review due date, whichever date is earlier. Prior to submitting the response to the National PRC, the reviewed firm should submit the response to the team captain for review, evaluation, and comment. If the provider receives a report with a peer review rating of *pass* or *pass (with a scope limitation)*, a letter of response is not applicable, and the provider does not submit a copy of the report to the National PRC.

.181177 The provider should also respond on the FFC forms, if any are developed, to findings and related recommendations. These responses should describe the plan (including timing) the provider has implemented or will implement with respect to each finding. They should be submitted to the team captain no later than two weeks after the exit conference or by the peer review's due date, whichever is earlier. FFC forms are submitted by the team captain with the applicable working papers to the National PRC.

.182178 If, after a discussion with the team captain, the provider disagrees with one or more of the findings, deficiencies, or significant deficiencies, the reviewed firm should contact the administering entity for assistance in the matter (see paragraph 93). If the provider still disagrees with one or more of the findings, deficiencies, or significant deficiencies, its response on either the FFC form or in the letter of response, as applicable, should describe the reasons for such disagreement.

Appendix A

Summary of the Nature, Objectives, Scope, Limitations of, and Procedures Performed in System and Engagement Reviews and Quality Control Materials and Continuing Professional Education Program Reviews (as Referred to in a Peer Review Report) [excerpted]

Quality Control Materials or CPE Program Reviews

17. A Quality Control Materials (QCM) or CPE Program Review is a type of peer review that is a study and appraisal by an independent evaluator(s) (known as a *peer reviewer*), of an organization's (hereinafter referred to as *provider*) system of quality control to develop and maintain accounting and auditing quality control materials or continuing professional education programs. Materials or programs designed to aid practitioners with tax or other services is outside of the scope of this type of review. ~~quality control materials ("materials").~~ The system represents the provider's policies and procedures that the provider has designed, and is expected to follow, when developing the materials or programs. The peer reviewer's objective is to determine whether the system is designed and whether the organization is complying with its system appropriately so that users of the materials or programs, primarily CPA firms and their employees, know that they can rely on the them. ~~For instance, materials.~~ The materials can be part or all of a firm's documentation of their system, such as in the form of, for example, manuals, programs, and practice aids (forms and questionnaires). As such, the users rely on the materials to assist them in performing and reporting in conformity with professional standards (as described in the preceding paragraphs) in conducting their accounting and auditing practices.

18. A QCM or CPE review is similar to a System Review. ~~However, however,~~ the focus is on the system for developing the materials, instead of on the system for the performance of accounting and auditing work. A reviewer obtains an understanding of the design of the provider's system, including its policies and procedures and how the provider checks itself that it is complying with them. The reviewer obtains this understanding through inquiry of provider personnel and review of documentation on the system. In a QCM review, the reviewer also reviews the materials to determine if they are reliable. The objectives of obtaining an understanding of the system and then reviewing the materials forms the basis for the reviewer's conclusions in the peer review report.

19. The extent of a provider's policies and procedures and the manner in which they are implemented will depend upon a variety of factors, such as the size and organizational structure of the provider and the nature of the materials provided to users. Variance in individual performance and professional interpretation affects the degree of compliance with prescribed quality control policies and procedures. Therefore, adherence to all policies and procedures in every case may not be possible.

20. When a provider receives a QCM or CPE review report from a peer reviewer with a peer review rating of *pass*, this means the system is designed and being complied with appropriately to provide users of the materials with reasonable assurance that the materials are reliable. If a provider receives a report with a peer review rating of *pass with deficiencies*, this means the system is designed and complied with appropriately to provide users of the materials with reasonable assurance that the materials are reliable, except in certain situations that are explained in detail in the peer review report. When a provider receives a report with a peer review rating of *fail*, the peer reviewer has determined that the provider's system is not suitably designed or being complied with to provide users of the materials with reasonable assurance that the materials are reliable, and the reasons why are explained in detail in the report.

21. There are inherent limitations in the effectiveness of any system and, therefore, noncompliance with the system may occur and not be detected. A QCM or CPE peer review is based on ~~judgmental~~ selective review of the materials. It is directed at assessing whether the design of and compliance with the provider's system provides the provider with reasonable, not absolute, assurance of the materials conforming with the professional standards they purport to encompass. Consequently, it would not necessarily detect all weaknesses in the system, all instances of noncompliance with it, or that each aspect of the materials is accurate or reliable. Projection of any evaluation of a system to future periods is subject to the risk that the system may become inadequate because of changes in conditions or because the degree of compliance with the policies or procedures may deteriorate.

Appendix U

Illustration of a Report with a Peer Review Rating of *Pass* in a Peer Review of Continuing Professional Education Programs

Continuing Professional Education Programs System Review Report

April 30, 20XX

Executive Board

XYZ Organization

and the National Peer Review Committee

We have reviewed the system of quality control for the development and maintenance of the continuing professional education programs (hereafter referred to as *programs*) of XYZ Organization (the organization) in effect at December 31, 20XX. Our continuing professional education peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The organization is responsible for designing a system of quality control and complying with it to provide users of the programs with reasonable assurance that the programs developed under the system of quality control are reliable aids to assist them in conforming with those professional standards that the programs purport to encompass. Our responsibility is to express an opinion on the design of the system and the organization's compliance with that system based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a Continuing Professional Education Programs Review are described in the standards at www.aicpa.org/prsummary.

In our opinion, the system of quality control for the development and maintenance of the continuing professional education programs of the XYZ Organization was suitably designed and was being complied with during the year ended December 31, 20XX, to provide users of the programs with reasonable assurance that the programs developed under the system of quality control are reliable aids to assist them in conforming with those professional standards the programs purport to encompass. Organizations can receive a rating of *pass*, *pass with deficiency(ies)*, or *fail*. XYZ Organization has received a peer review rating of *pass*.

ABC & Co.¹

¹ The report should be signed in the name of the team captain's firm for firm-on-firm reviews or association formed review teams.

Proposed Revisions to the Peer Review Interpretations

21-1 Question—Paragraph .21 of the standards states that independence in fact and in appearance should be maintained with respect to the reviewed firm by a reviewing firm, by review team members, and by any other individuals who participate in or are associated with the review and that the review team should perform all peer review responsibilities with integrity and maintain objectivity in discharging those responsibilities. What criteria have been established by the board?

Interpretation—c. Relationships With the Reviewed Firm

Reviewing firms should consider any family or other relationships between the management at organizational and functional levels of the reviewing firm, affiliate relationships, and common ownership of entities that provide products or services and the firm to be reviewed, and should assess the possibility of an impairment of independence.

If the fees for any services provided between firms, whether paid by the referring firm or by the client, involving the reviewed firm and the reviewing firm or the firm of any member of the review team are material to any of those firms, independence for the purposes of this program is impaired.

If arrangements exist between the reviewed firm and the reviewing firm or the firm of any member of the review team whereby expenses, office facilities, or personnel are shared, independence for the purposes of this program is impaired. Similarly, independence would be considered to be impaired by sharing arrangements involving, for example, frequent CPE programs, extensive consultation, preissuance reviews of financial statements and reports, or audit and accounting manuals. In such circumstances, the firms involved are sharing materials and services that are an integral part of their systems of quality control. ~~However, the impairment would be removed if an independent peer review was made aware of the shared materials (such as CPE programs or an audit and accounting manual) before the peer review commenced and if that independent peer review was accepted by an approved body (determined by the board) before that date.,,~~

If the reviewed firm uses quality control materials (QCM) or CPE programs that any member of the review team helped to develop or maintain, the independence of the reviewing firm is impaired. Development and maintenance activities with respect to QCM and CPE programs include but are not limited to authoring or writing the materials and programs or any portion thereof, performing technical reviews, assessments or evaluations of the materials and programs, performing any type of editorial services on the materials and programs, etc. This is applicable regardless of whether the materials or programs are provided by a CPA firm, association, or any other type of entity. Additionally, if an entity that develops and maintains materials or programs is affiliated with a reviewing firm, the independence of the reviewing firm to peer review a firm that uses those materials is impaired.

21-7 Question—Firm A has an arrangement with Firm B whereby Firm A sends its staff to CPE programs developed by Firm B. Can Firm B perform a peer review of Firm A?

~~*Interpretation*—No, unless Firm B has had its CPE programs peer reviewed by an independent party (see standards for guidance in “Performing and Reporting on Peer Reviews of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs”). If such a peer review is not undertaken and reported on before the peer review of Firm A commences, Firm B would not be considered independent for purposes of conducting the peer review of Firm A. In addition, peer reviewers from Firm B cannot serve on Firm A’s review team. However, occasional (infrequent and not part of Firm A’s regular CPE training plan) attendance by representatives of Firm A at programs developed by Firm B would not preclude Firm B from reviewing Firm A.~~

21-9 Question—Firm B uses Firm A’s accounting and auditing manual as its primary reference source. Can Firm A perform a peer review of Firm B, or can Firm B perform a peer review of Firm A?

Interpretation—No, unless Firm A has had its accounting and auditing manual and any other of its reference material used by Firm B as a primary reference source peer reviewed by an independent party.

The peer review of the materials should be similar to the review of quality control materials in associations and should meet the same peer review performance and reporting standards. If such a peer review is not undertaken and reported on before the peer review commences, Firm A would not be considered independent for purposes of conducting the peer review. In addition, no peer reviewers from Firm A can serve on Firm B's review team. In addition, if Firm B uses the manual as an integral part of its system of quality control, it would be precluded from performing the peer review of Firm A. However, if the manual is used only as a part of the firm's overall reference library (not an integral part of Firm B's system of quality control), independence would not be impaired. This interpretation also applies to providers of quality control materials or CPE programs.

21-20 Question—Firm A purchases an accounting and auditing manual developed by an association that it belongs to as its primary reference source. Personnel from Firm B that are also peer reviewers aided the association with the development of the manual by authoring sections of the materials. The association forms review teams for its member firms. Can the association include reviewers from Firm B on the review team to peer review Firm A?

Interpretation—No, peer reviewers from Firm B would not be considered independent for purposes of serving on the peer review team for Firm A. This is applicable for both association-formed review teams and firm-on-firm review teams. However, if the manual is used only as a part of the firm's overall reference library (not an integral part of Firm A's system of quality control), independence would not be impaired.

26-1 Question—Paragraph .26 of the standards states that a review team may be formed by a firm engaged by the firm under review (a firm-on-firm review) or an association of CPA firms authorized by the board to assist its members in forming review teams (an association formed review team). What criteria have been established by the board for association formed review teams?

Interpretation—Associations of CPA firms include any group, affiliations, or alliances of accounting firms. The term also applies to two or more firms or a group of firms (whether a formal or informal group) that jointly market or sell services.

A member firm of an association may conduct a peer review of another association-member firm enrolled in the program, provided that the association receives annual approval from the board. The National PRC administers this process on behalf of the board. The association must submit an AIF to the National PRC that must be approved by the board prior to any aspect of the review being planned, scheduled, or performed.

The AIF contains questions regarding general information about the association, independence matters, and whether the association requests to be approved to assist its members in the formation of review teams, provide technical assistance to such review teams, or do both. All review teams must still be approved by the administering entity. The AIF is subject to oversight by the board.

The approval of the AIF specifically relates to AICPA members of an association having the ability to perform peer reviews of other AICPA members in the same association enrolled in the program. Furthermore:

- a. Annual approval of the AIF does allow, where the association has answered the specific questions making such a request, the association the ability to assist its members in the formation of review teams (association formed review teams) or to provide technical assistance to such review teams.
- b. The reviewed firm and administering entity, not the association, is ultimately responsible for ensuring that its peer review is scheduled, performed, and completed in a timely manner.
- c. Annual approval of the AIF does not grant the association the authority to administer the program; therefore, the association is not deemed an approved administering entity.

d. Approval of the AIF is not an endorsement of, approval of, or has any applicability to a separate peer review program that an association may conduct or administer for non-AICPA members.

e. If the association makes any representations (in brochures, directories, pamphlets, Web pages, or any marketing or selling materials regarding its member firms in obtaining engagements) such representations are objective and quantifiable.

For a member firm of an association to conduct peer reviews of another association-member firm enrolled in the program, in addition to other peer review independence requirements, the association and its member firms must meet the following independence criteria:

a. The association, as distinct from its member firms, does not perform any professional services other than those it provides to its member firms or affiliates. For purposes of this requirement, *professional services* include accounting, tax, personal financial planning, litigation support, and professional services for which standards are promulgated by bodies designated by AICPA Council.

b. The association does not make representations regarding the quality of professional services performed by its member firms to assist member firms in obtaining engagements unless the representations are objective or quantifiable. However, member firms may independently publicize their membership in the association. In addition, an association may respond to inquiries and prepare promotional materials that firms may use to obtain professional engagements on their own behalf.

c. Referral or participating work among member firms is arranged directly by the firms involved.

d. The association does not have any direct or material indirect financial interest or involvement in its member firms in sharing fees generated by members through the sale of products or services.

e. The association does not exercise any direct or indirect management control over the professional or administrative functions of its member firms.

An For a member firm of an association may voluntarily elect to have an independent triennial conduct a peer review of its system of quality control to develop and maintain another association member firm enrolled in the program when quality control materials or CPE programs used by its member firms members constitute association materials, the association shall arrange for an independent triennial peer review of those materials (see paragraphs .154-.182-.178 of the standards). An association may wish to have such a review to enable its member Therefore, firms that use the materials or programs it develops to have more efficient peer reviews. Associations that elect to have this type of review should share such materials are advised to consult with AICPA program staff if an independent review of the shared materials appears necessary.

An association formed review team,

a. requires that a majority of the review team members, including the team captain in a System Review, and all members in an Engagement Review, be from association member firms.

b. performs peer reviews in accordance with these standards, interpretations, and other guidance and the peer review report is issued on the letterhead of the team captain or review captain's firm and signed in the name of the team captain or review captain's firm (not the association).

Peer reviews performed by association-formed review teams are subject to oversight by the board and the administering entities and other bodies agreed upon by the board and the administering entity.

42-2 Question—Many firms rely on third party quality control materials (QCM) and continuing professional education (CPE) programs as integral portions of the firm's system of quality control. As the system for developing and maintaining the third party materials lies outside of the reviewed firm, how should the review team evaluate the adequacy of the materials relied upon by the reviewed firm?

Interpretation—The review team should determine whether a provider of QCM or CPE programs had an independent peer review. This type of review would entail an assessment of the provider's system to develop and maintain the QCM or CPE programs, and in a QCM review, include an assessment of ~~and~~ the resultant materials. Since the review team ordinarily assesses the suitability of the QCM or CPE programs as a part of its evaluation of the design of the reviewed firm's system of quality control, placing reliance on the provider's peer review results affects the assessment of peer review risk and impacts the nature, timing, and extent of the review team's evaluation of the firm's system of quality control. The review team should obtain the peer review results (i.e. the report, LOR (if applicable), etc.) to consider the impact on the reviewed firm's system of quality control. The provider's peer review results may be obtained from either the AICPA's website, the provider's website or from the reviewed firm.

- If the provider received a pass report, then the review team can place reliance on the provider's peer review results with respect to that portion of the reviewed firm's design of its system.
- If the provider received a pass with deficiencies report, the review team should consider the reasons for the deficiencies identified in the report and assess their relevance to the reviewed firm. Once this assessment is made, the review team can determine the degree of reliance it can place on the provider's results.
- If the provider received a fail report, no reliance can be placed on the results, and the review team should determine the impact on the reviewed firm's system of quality control.

Peer reviews of providers of QCM or CPE programs generally occur on a triennial basis. If the report date is three years or older, it loses its usability and no reliance can be placed upon it.

In addition, the review team should consider 1) the version date of the materials relative to the period covered by the report, and 2) the amount of time that's passed since the period covered by the report in determining the degree of reliance that can be placed on the report. Factors to consider include:

- The issuance of new standards
- Changes in regulatory requirements
- Changes in economic conditions that impact the provider
- Limitations or restrictions on authors of the materials
- Any substantial changes to the materials used by the firm

Regardless of the degree of reliance placed on the provider's peer review results, the review team is still responsible for determining which forms, checklists, programs, etc. are used by the reviewed firm as a part of its system of quality control, how often the materials are updated, the degree of reliance placed on the materials, and assessing compliance with their use. The results of the provider's peer review should weigh in the assessment of control risk, and be documented in the risk assessment.

~~If a peer review of the system to develop and maintain the QCM or CPE peer review programs and the resultant materials~~ was not performed, the review team will need to perform its own evaluation to determine if the materials or programs were suitably designed. This includes third party materials as well as materials that were designed by the reviewed firm. This evaluation is a part of the review team's overall assessment of the design of the reviewed firm's system of quality control, and should be documented in the risk assessment.

For additional information on peer reviews of QCM or CPE programs, please see paragraphs .154-.182, and Appendix A of the Standards.

MEMORANDUM

December 12, 2010

TO: Nancy Corrigan, Chair, PROC
PROC Members

FROM: Tze-Ki Lam, PROC Member
Robert Lee, PROC Member Elect

SUBJECT: AICPA Peer Review Program Exposure Draft, June 1, 2010

This memorandum is respectfully submitted to the California Peer Review Oversight Committee for purposes of making a recommendation to the California Board of Accountancy for their consideration in submitting a response to the AICPA during the open comment period regarding the AICPA Exposure Draft of June 1, 2010 entitled "Proposed Revisions to the AICPA Standards for Performing and Reporting on Peer Reviews: Performing and Reporting on Peer Review of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs."

In summary, the Exposure Draft calls for three major changes to the current standards as follows:

- 1) "Revises and clarifies the guidance for [individuals or firms] involved in the development and maintenance of QCM or CPE programs such that they are not permitted to serve on review teams that use [the] QCM or CPE programs [that the individuals or firms developed as QCM and CPE materials for peer review] (user firms) . This impacts firms that develop and maintain QCM or CPE programs (provider firms) as well as an association of CPA firms that develop and maintain QCM or CPE programs (provider association).
- 2) "Removal of the requirements for providers to undergo triennial peer reviews of the systems to develop and maintain QCM and CPE programs, and of the resultant materials. However, providers can still elect to undergo such a review voluntarily. This is applicable for provider associations."
- 3) "Revises the procedures for performing a CPE program review for those providers that elect to undergo such a review. There are no changes proposed to the procedures for performing a QCM peer review, although some clarifications to those procedures are included."

With respect to change #1 above, the AICPA Peer Review Board (PRB) is seeking to further strengthen and clarify the current *Standards for Performing and Reporting on Peer Reviews* and related *Interpretations* (collectively "*Standards*") and better ensure that the *Standards* support and comply with one of the most important pillars of our profession – Independence. This fundamental hallmark of our profession requires that a CPA be independent in fact and/or in appearance. The Peer Review *Standards* define independence and objectivity in paragraph 22, stating that "the reviewing firm, the review team,

and any other individuals who participate on the peer review should be free from an obligation to, or interest in, the reviewed firm or its personnel." With respect to objectivity, paragraph 22 further states "the principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest."

The predominant issue at hand arises when a developer and provider of QCM and CPE materials sells its own materials to a user firm that employs the materials and then engages the provider firm to perform peer review services for the user firm. The purchase of QCM and CPE materials from a provider naturally creates an economic relationship with a user firm. This economic relationship further creates a natural desire on behalf of the provider to ensure that the materials they have developed and sold to the user firm will result in a favorable outcome for the user firm. As a result, this economic bias could readily taint the objectivity of the provider firm both in fact and/or in appearance. Providers will naturally benefit when the firms that use their materials successfully complete peer review.

In addition to creating a lack of independence, the provider that delivers QCM and CPE materials for implementation by a user firm will by default become an extension of the user firm's system of quality control. Again, this is a violation of the Independence rules and standards requiring that CPA's not be a part of the establishment and implementation of internal controls, including monitoring ongoing activities, in attest engagements. The PRB therefore concluded that the "consequences of allowing a peer reviewer that is also a part of the provider's system of control to peer review a user firm conflicts with a peer reviewer maintaining the independence, integrity and objectivity that the *Standards* embody."

The proposed change regarding #1 above, affects paragraphs 156, 159, 160 and 164 of the *Standards* as well as Interpretations 21-1, 21-7 and 21-9.

The *Standards* as they currently exist, sought to mitigate the independence issues above by requiring provider firms to undergo triennial peer review themselves. The issue again is that these provisions only provided a level of mitigation and not an elimination of the item causing the lack of independence. The objective of the PRB is to eliminate these situations from occurring by prohibiting provider firms from also peer reviewing a firm for which they have provided QCM and CPE materials. With the revisions of the *Standards* as provided in #1 and as discussed above, the need for a peer review of provider firms on a triennial basis or otherwise as outlined in #2 above is of no consequence. Therefore the areas covered under #2 providing for compulsory triennial peer review will be eliminated while still allowing for a provider firm to undergo a peer review should they so desire. This proposed change affects *Standards* paragraphs 159 and 160.

Change #3 above relates to the lack of provisions in the *Standards* regarding the instruction component of CPE programs. The *Standards* do require that the peer reviewer evaluate and opine on the system to develop and maintain the CPE programs. "The PRB considered how users rely on the peer review reports of the CPE programs and determined that since the instruction component of a CPE program is key to the programs as a whole, users of CPE program peer review reports are not served by an opinion on the program aids alone." The PRB also "determined that there is no practical and efficient way that the instruction component can be appropriately evaluated and opined upon."

Since a peer reviewer can evaluate and opine on the system in place to develop and maintain the CPE program, the PRB determined that the report for CPE programs should be revised to opine on the system to develop and maintain CPE programs and that the peer review procedures in the *Standards* performed in support of the report should similarly be revised so that the procedures focus on the system.

The change in #3 above affects *Standards* paragraphs 156, 158-160, 166 and 168-173, and renumbers the paragraphs beginning in 170.

In reviewing the above provisions and in researching the responses to the AICPA Exposure Draft it was noted that they overwhelmingly support the Exposure Draft.

As a result of the intent of the AICPA's work in this endeavor to uphold the pillar of independence which is so key to the vitality of our profession and the protection of the public interest, it is the considered opinion and respectful recommendation of this subcommittee of the California Peer Review Oversight Committee that our committee wholly support the provisions of the Exposure Draft and recommend to the California Board of Accountancy that they cast their full support in favor of this Exposure Draft.



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ATTACHMENT 3

January 28, 2011

LaShaun King, Technical Manager
AICPA Peer Review Program
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, NC 27707-8110

Re: Peer Review Exposure Draft

Dear Ms. King:

On behalf of the California Board of Accountancy (CBA), I am pleased to submit our comments on the American Institute of Certified Public Accountants (AICPA) Exposure Draft titled "Proposed Revisions to the AICPA Standards for Performing and Reporting on Peer Reviews: Performing and Reporting on Peer Reviews of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs."

The first notable change addressed in the Explanatory Memorandum of the Exposure Draft states that "those involved in the development and maintenance of QCM or CPE program ... are not permitted to serve on review teams to peer review firms that use those QCM or CPE programs." This change seeks to further strengthen and clarify the current *Standards* and better ensure that the *Standards* support and comply with one of the most important pillars of our profession – independence.

The second revision outlined in the Explanatory Memorandum "removes the provision requiring providers to undergo a triennial peer review of the system to develop and maintain QCM or CPE programs, and the resultant materials." The *Standards* as they currently exist, sought to mitigate the independence issues by requiring provider firms to undergo triennial peer review. With the revisions of the *Standards* as provided in the first issue, the need for a peer review of provider firms on a triennial basis or otherwise is of no consequence.

The third change "revises the procedures for performing a CPE program peer review for those providers that elect to undergo such a review." Since a peer reviewer can evaluate and opine on the system in place to develop and maintain the CPE program, the PRB determined that the report for CPE programs should be revised to opine on the system to develop and maintain CPE programs and that the peer review procedures in the *Standards* performed in support of the report should similarly be revised so that the procedures focus on the system.

LaShaun King
January 28, 2011
Page 2

Given that independence is a critical element of the peer review process, the CBA is supportive of all the changes to the AICPA Peer Review Program and believes that they will increase consumer protection through enhanced independence and objectivity for those performing peer reviews.

Thank you for the opportunity to provide comment on the AICPA Exposure Draft "Proposed Revisions to the AICPA Standards for Performing and Reporting on Peer Reviews: Performing and Reporting on Peer Reviews of Quality Control Materials (QCM) and Continuing Professional Education (CPE) Programs."

Regards,

Sarah Anderson, CPA, President

c: Members, California Board of Accountancy

DRAFT

Memorandum

CBA Agenda Item XII.H.2.
January 27-28, 2011

To : CBA Members

Date : January 7, 2011

Telephone : (916) 561-1743

Facsimile : (916) 263-3676

E-mail : shoffman@cba.ca.gov

From : Fausto Hinojosa, Chair
Qualifications Committee

Subject : Proposed 2011 Qualifications Committee Meeting Dates

The Qualifications Committee (QC) is requesting the California Board of Accountancy adopt the following 2011 QC meeting dates. These dates will be approved by the QC at the January 26, 2011 meeting.

QC Meeting Date	Location
April 20, 2011	North
July 27, 2011	South
October 19, 2011	North



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CBA Agenda Item XIII.A.
January 27-28, 2011

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

DRAFT
1-5-11

MINUTES OF THE
SEPTEMBER 22-23, 2010
CBA MEETING

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 Facsimile: (916)-263-3674

Roll Call and Call to Order.

President Manuel Ramirez called the meeting to order at 1:30 p.m. on Wednesday, September 22, 2010 at the CBA Office in Sacramento. The CBA members heard Agenda Items I – VI. The CBA members convened into closed session at 2:25 p.m. to deliberate Agenda Items III.A. – C., and into executive closed session at 3:22 p.m. to deliberate Agenda Item III.D. The meeting reconvened into open session at 3:55 p.m., and the meeting adjourned at 3:56 p.m. CBA President Ramirez reconvened the meeting to order at 9:05 a.m. on Thursday, September 23, 2010, and the meeting adjourned at 3:44 p.m.

CBA Members

September 22, 2010

Manuel Ramirez, President	1:30 p.m. to 3:56 p.m.
Sally Anderson, Vice President	1:30 p.m. to 3:56 p.m.
Marshal Oldman, Secretary-Treasurer	Absent.
Diana Bell	1:30 p.m. to 3:56 p.m.
Rudy Bermudez	1:40 p.m. to 3:56 p.m.
Michelle Brough	Absent.
Angela Chi	1:30 p.m. to 3:56 p.m.
Donald Driftmier	1:30 p.m. to 3:56 p.m.
Herschel Elkins	Absent.
Louise Kirkbride	Absent.
Leslie LaManna	1:30 p.m. to 3:56 p.m.
Robert Petersen	1:30 p.m. to 3:56 p.m.
David Swartz	Absent.
Lenora Taylor	1:33 p.m. to 3:56 p.m.
Andrea Valdez	Absent.

CBA Members

September 23, 2010

Manuel Ramirez, President	9:05 a.m. to 3:44 p.m.
Sally Anderson, Vice President	9:05 a.m. to 3:44 p.m.
Marshal Oldman, Secretary-Treasurer	Absent.
Diana Bell	9:05 a.m. to 3:44 p.m.
Rudy Bermudez	9:23 a.m. to 3:44 p.m.
Michelle Brough	9:21 a.m. to 3:44 p.m.
Angela Chi	9:05 a.m. to 3:44 p.m.
Donald Driftnier	9:05 a.m. to 3:44 p.m.
Herschel Elkins	Absent.
Louise Kirkbride	Absent.
Leslie LaManna	9:05 a.m. to 3:44 p.m.
Robert Petersen	9:05 a.m. to 3:44 p.m.
David Swartz	Absent.
Lenora Taylor	9:05 a.m. to 3:44 p.m.
Andrea Valdez	Absent.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Dan Rich, Assistant Executive Officer
Rich Andres, Information Technology Staff
Veronica Daniel, Board Relations Analyst
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Manager, Licensing Division
Scott Harris, Deputy Attorney General, Department of Justice (DOJ)
Lauren Hersh, Information and Planning Officer
Rafael Ixta, Chief, Enforcement Division
Vincent Johnston, Outreach Analyst
Nick Ng, Manager, Administration Division
Deanne Pearce, Chief, Licensing Division
Carl Sonne, Deputy Attorney General, DOJ
Matthew Stanley, Legislation/Regulation Analyst
Kathy Tejada, Manager, Enforcement Division
Liza Walker, Manager, Licensing Division
Spencer Walker, Legal Counsel, DCA

Committee Chairs and Members

Cheryl Gerhardt, Vice Chair, Enforcement Advisory Committee (EAC)
Maurice Eckley, Vice Chair, Qualifications Committee (QC)

Other Participants

G.V. Ayers, Senate Business Professions & Economic Development

Committee

Ken Bishop, National State Boards of Accountancy (NASBA)

Gil DeLuna, DCA

James Gross, Nielson, Merksamer, Parrinello, Mueller & Naylor LLP

David Helphrey, Center for Public Interest Law (CPIL)

Ed Howard, CPIL

Deidre Johnson, Administrative Law Judge (ALJ)

Doreathe Johnson, Deputy Director, DCA Legal Affairs

Brian Joseph, Orange County Register

Pilar Onate-Quintana, KP Public Affairs, for national firms

Kurt Oneto, Nielson, Merksamer, Parrinello, Mueller & Naylor LLP

Jonathan Ross, KP Public Affairs, for national firms

Hal Schultz, California Society of Certified Public Accountants (CalCPA)

Jeannie Tindel, CalCPA

Kristy Wiese, Nielson, Merksamer, Parrinello, Mueller & Naylor LLP

Bill Young, Chief Deputy Director, DCA

I. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 1:30 p.m. on Wednesday, September 22, 2010.

II. Report of the President.

A. Update on California Research Bureau (CRB) Study.

Ms. Bowers stated the CRB report should be ready in advance of the CBA Working Conference in October 2010. Ms. Bowers further stated that she will continue to provide information regarding this matter.

B. Update on Peer Review Implementation.

Mr. Franzella provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Ramirez suggested that staff conduct testing to validate the self-certification of attest services and requested staff to provide ideas on how to accomplish this. Ms. Bowers stated that the peer review program is currently transitioning from the Licensing Division to the Enforcement Division and this would be handled by the Non-technical Unit.

Ms. Anderson recommended the Outreach Committee provide notification to consumers suggesting that they request to see their CPA firm's peer reviews.

C. Resolution for Retiring Enforcement Advisory Committee (EAC) Chair, Harish Khanna.

It was moved by Mr. Petersen, seconded by Ms. Bell and unanimously carried by those present to adopt the resolution for retiring EAC Chair, Harish Khanna.

D. Introduction of Newly Assigned DCA Legal Counsel for the CBA.

Mr. Duke introduced Spencer Walker, newly assigned legal counsel for the CBA.

Mr. Ramirez welcomed Mr. Walker and thanked Mr. Duke for his service to the CBA.

E. Introduction of Newly Assigned Deputy Attorney General for the CBA.

Mr. Harris introduced Carl Sonne, newly assigned Deputy Attorney General for the CBA.

Mr. Ramirez welcomed Mr. Sonne and thanked Mr. Harris for his service to the CBA and the consumers of California.

F. Discussion on International Delivery of the Uniform CPA Examination (iExam).

This item was deferred and took place after Agenda Item VII.

III. Petitions, Stipulations, and Proposed Decisions [Closed Session Government Code Section 11126(c)(3)]. Petition Hearings are Public Before the CBA with a Subsequent Closed Session.

A. Ernest E. Dow & Co., An Accountancy Corp. – Stipulated Settlement.

B. Dennis A. Ito – Stipulated Settlement.

C. Stuart Gladstein and Gladstein CPA – Stipulated Settlement.

D. David Greenberg – Petition for Reinstatement of Revoked Certificate.

Agenda Items III.A. – D. were deferred and took place after Agenda Item V.C.

IV. Report of the Vice President.

A. EAC Appointment.

It was moved by Ms. Taylor, seconded by Ms. Chi and unanimously carried by those present to adopt the recommended appointment of Mr. Joseph Buniva to the EAC.

B. Peer Review Oversight Committee (PROC) Appointment.

It was moved by Ms. Anderson, seconded by Mr. Petersen and unanimously carried by those present to adopt the recommended appointment of Mr. Robert A. Lee to the PROC.

Ms. Bowers stated that appointments to CBA committees may be delayed due to the current hiring freeze.

V. Report of the Secretary/Treasurer.

A. Discussion of Governor's Budget.

B. FY 2009/2010 Year-End Financial Report.

Mr. Ng provided an overview of this agenda item (**see Attachment __**).

Ms. Taylor inquired whether the impending loan for \$10 million from the Accountancy Fund has been approved. Mr. Ng stated that approval is expected once the budget is signed.

C. DCA Legal Opinion Regarding Loans to General Fund.

Mr. Duke provided an overview of this agenda item (**see Attachment _**).

Mr. Ramirez inquired why the CBA was targeted for the \$10 million loan to the General Fund. Mr. Duke stated the reason is unclear, however it is his opinion that it may be due to the CBA having a large contingency fund.

Mr. Ramirez inquired regarding the status of the licensing renewal fee reduction. Mr. Stanley stated it is currently in the departmental review process and approximately six months away from completion of review.

Ms. Anderson inquired regarding loan repayment in the event that major cases come in and the money is needed. Mr. Duke believed that if there is a problem, repayment will be made; however, the timeframe for repayment is unknown.

Mr. Driftmier stated that the issue is not only for the CBA to get its money back, but it is also the issue of its hands being tied when it comes to spending money received from licensing fees. Mr. Driftmier stated there is constant dialogue from the DCA regarding the need to focus on enforcement; however, the CBA is unable to hire consultants and quality candidates to accomplish this charge. Mr. Driftmier further stated that licensees pay their fees and the CBA should be able to conduct its business as a board.

Ms. Taylor suggested the CBA pursue adding language to the Business and Professions Code stating that CBA funds may not be transferred to the General Fund. Mr. Ramirez concurred with Ms. Taylor and assigned this task to the Legislative Committee.

The CBA then considered Agenda Items III.A. – D., Petitions, Stipulations, and Proposed Decisions in closed session.

VI. Public Comments.

No public comments were received.

VII. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 9:05 a.m. on Thursday, September 23, 2010.

The CBA then heard Agenda Item II.F., Discussion on International Delivery of the Uniform CPA Examination (iExam).

Mr. Bishop provided an overview of the iExam and encouraged the CBA to strongly consider participation.

Mr. Ramirez inquired regarding how iExam would affect California's residency requirement. Mr. Bishop stated that some states, New York for example, are dropping the residency requirement in order to participate.

CBA members expressed concern regarding the potential risk to California consumers and how disciplinary action would take place internationally. Mr. Petersen expressed concern that iExam would create competition for California CPAs.

Mr. Bishop stated that iExam will not work without education to consumers. Mr. Bishop stated that NASBA will monitor issues subject to disciplinary action. Mr. Bishop further stated it is a risk for California to not participate and not have a presence on ground in other countries.

Mr. Ramirez assigned the Committee on Professional Conduct to review and determine whether the CBA should consider participation in iExam. Mr. Ramirez stated he wants to ensure that California consumers are not at risk from an enforcement perspective.

VIII. Report of the Executive Officer.

A. Update on 2010/2012 CBA Communications and Outreach Plan.

Ms. Hersh provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Ramirez acknowledged Ms. Hersh for her efforts in communication and outreach on behalf of the CBA.

B. Update on October 27, 2010 CBA Working Conference.

Mr. Rich stated the CBA Working Conference is soon approaching and provided an overview of the current draft agenda for the event.

Mr. Petersen stated that since the conference was designed for discussion, more time should be allotted for each agenda item.

Mr. Driftmier suggested adding an agenda item to further discuss iExam. Mr. Ramirez concurred and requested it be added as a placeholder to continue to refine the issues with this topic.

C. Educational Presentation – Sunset Review Process.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. LaManna acknowledged the thorough information provided by staff.

D. CBA 2010 Sunset Review Report.

Mr. Johnston provided an overview of the draft Sunset Review Report **(see Attachment __)**.

It was moved by Ms. LaManna, seconded by Ms. Brough and unanimously carried by those present to adopt the CBA 2010 Sunset Review Report.

E. Consideration of Posting Accusations on the CBA's Web site.

Ms. Bowers provided an overview of the memorandum, which contains legal opinions for this agenda item **(see Attachment __)**.

Mr. Stanley provided an overview of the memorandum with background information relating to AB 1005 **(see Attachment __)**.

Mr. Ramirez inquired regarding whether all boards/bureaus are in compliance with the DCA directive to post formal accusations. Ms. Bowers stated that a survey was initially conducted that suggested not all boards/bureaus were posting formal accusations. Ms. Bowers stated that it is her understanding that as of this week, all boards/bureaus other than CBA, are in compliance with the directive.

Mr. Ixta provided an overview of the memorandum with background

information and options for addressing the requirement of posting accusations (**see Attachment**).

Mr. Howard stated the DCA has the statutory authority to post accusations. Mr. Howard stated that AB 1005 does not preclude the CBA from posting accusations. Mr. Howard further stated that AB 1005 sets a floor of what the CBA must do and that there is nothing in the law that prohibits the CBA from posting formal accusations.

Mr. Ramirez inquired if the CPIL was involved with the compromise in language regarding AB 1005. Mr. Howard stated yes. He noted that the original bill included language to require the posting of accusations, and the compromise was that the CBA would not be legally required to post accusations on its Web site.

Ms. Tindel expressed CalCPA's opposition and stated it is evident that the CBA is committed to consumer protection by posting a notice of existence of an accusation against a licensee. Ms. Tindel further stated the CBA is very efficient and compliant with providing a copy of any formal accusation upon request.

Ms. Tindel introduced Mr. Gross and Mr. Oneto, of the firm Nielson, Merksamer, Parrinello, Mueller & Naylor LLP (Nielson Merksamer), who authored the legal opinion on behalf of CalCPA.

Mr. Oneto stated that the legal opinion is reflective of how a court would interpret a statute. Mr. Oneto stated the language in the statute is precise in stating exactly what the CBA is required to post, which is notice of an accusation and a link to where an individual may request the accusation. Mr. Oneto stated there would be no need to require notice and link if the formal accusation was available on the Web site. Mr. Oneto further stated there is a clear history of what the legislature intended in statute.

CBA members discussed the compromise in wording of the statute, which altered the language from requiring the posting of an accusation, to requiring the notice of an accusation with a link.

Mr. Ramirez stated that the legal opinions provided do not address the due process issue.

Mr. Duke stated his disagreement with the legal opinion provided by Nielson Merksamer.

Mr. Walker stated he is in agreement with Mr. Duke and Mr. Howard's analysis. Mr. Walker stated there is no due process issue regarding this matter. Mr. Walker provided clarification regarding the differentiation between B&P Code Section 5103.5 and the Public Records Act. Mr. Walker stated that not posting the formal accusation leads to a negative

public perception. Mr. Walker further stated the CBA cannot place the interest of a licensee in front of that of a consumer.

Ms. Chi expressed concern regarding future legal matters as a result of a decision to post accusations. Ms. Chi suggested that the CBA request a legal opinion from an independent attorney with no interest in the matter. Ms. Brough concurred with Ms. Chi's comments and stated it is offensive to imply that the CBA is not protecting consumers.

Mr. Bermudez suggested the CBA seek opinion from Legislative Counsel. Mr. Ayers stated that he placed a request for Legislative Counsel opinion, which should be provided by the end of October.

Ms. Taylor stated it is her opinion that the law requires a summary of the accusation and it would make more sense to provide the formal accusation.

Mr. Petersen stated this matter has been before the CBA for over a year and he would like to see it resolved.

It was moved by Mr. Petersen, seconded by Ms. Taylor and carried by those present to adopt Option 3 of Attachment 3 to post accusations on the CBA Web site with a watermark disclaimer identifying "This is not a disciplinary action or a final decision of the Board." The motion also included adoption of notice to licensee Option 2A with an amendment to clarify that the licensee has the right to an investigative hearing within 15 days of notice. Ms. Chi opposed. Ms. Brough and Mr. Bermudez abstained.

Mr. Driftmier stated that in response to Mr. Walker's comments regarding public perception, the CBA takes consumer protection very seriously. Mr. Driftmier stated he is in support of posting formal accusations.

Mr. Ramirez stated there was a technical issue regarding Mr. Petersen's motion.

Mr. Young stated that every board/bureau within the DCA, with exception of the CBA, are posting formal accusations on their respective Web sites. Mr. Young stated the DCA is currently posting accusations on behalf of the CBA. Mr. Young further stated that this is an opportunity for the CBA to fulfill its commitment to consumer protection by posting the accusations.

Mr. Bermudez stated that he would like to wait for the outcome of the opinion of Legislative Counsel.

It was then moved by Ms. Taylor, seconded by Ms. Bell and carried by those present to modify the amendment on the notice to clarify

the licensee has the right to request an investigative hearing within 15 days of notice. Ms. Chi, Ms. Brough, and Mr. Bermudez abstained. Mr. Petersen was temporarily absent.

F. DCA Director's Report.

1. Governor's Directive Regarding the Hiring Freeze.

Mr. Young stated the hiring freeze applies to all state agencies under the Governor's directive and all funding sources. Mr. Young stated there is an exception/exemption process, which will only be considered in situations of health and safety, disaster assistance, or mission critical. Mr. Young stated the CBA has submitted a request for exemption to obtain the necessary enforcement resources and this information will be forwarded for consideration. Mr. Young further stated this is a daunting endeavor; however, Ms. Bowers has made an excellent presentation which the DCA will aggressively pursue.

2. Budget Presentation Update.

Mr. Young stated there will be a panel of Subject Matter Experts available at the working conference in October, to address the CBA's budget-related inquiries.

Mr. Ramirez inquired if the budget presentation could include information on a legislative solution to the CBA's inability to hire investigators. Mr. Young stated the issue will be specifically addressed.

3. Posting Accusations/Disciplinary Decisions.

Mr. Young's comments regarding this topic were previously expressed under Agenda Item VIII.E.

G. Discussion on Obtaining an Exemption to the Webcasting Requirement.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Bermudez stated the he does not see the potential for this to be a radioactive bill. Mr. Bermudez stated it is a simple bill and we should encourage other boards/bureaus to participate. Mr. Bermudez stated that he sees this as an urgency bill with no issues. Mr. Bermudez further stated that he does not believe the intent was to include working structural meetings.

Mr. Howard stated the intent was to allow the broader public the same access to CBA meetings as if they were able to attend in person.

Mr. Howard stated that he is open to discussing this matter with the CBA as not every contingency and application of the law were originally considered. Mr. Howard further stated that a CBA retreat would be intensely interesting to the public.

Mr. Petersen inquired as to what was motive behind this proposal. Ms. Bowers stated that there was confusion regarding the original intent. Ms. Bowers further stated that this proposal is to provide clarification regarding the matter.

Mr. Petersen stated his opposition for the bill.

It was moved by Mr. Bermudez to pursue legislation regarding this matter. The motion failed due to lack of a second.

H. Update on Current Projects List (Written Report Only).

There were no comments received for this item.

IX. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. Pearce stated that Liza Walker, Licensing Manager, was nominated to represent the CBA with regards to the BreEZe implementation project.

B. Discussion on CBA's Use of the Accountancy Licensee Database (ALD).

Ms. Pearce provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. Pearce stated that Ms. Bowers played a key role in getting California on board with the ALD program. Ms. Pearce further stated that Ms. Anderson is also participating on the ALD task force and continuing the CBA's efforts regarding the program.

X. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Enforcement Case Activity and Status Report.

Mr. Ixta provided an overview of the new Enforcement Case Activity and Status Report **(see Attachment __)**.

Ms. Bowers recognized Mr. Ixta for his efforts in evaluating and revamping the exam and hiring process associated with the enforcement Investigative CPA series. Ms. Bowers stated the CBA is working on various alternatives to fill vacancies. Ms. Bowers further stated that positions are abolished after a six month vacancy period and it is unlikely the CBA will receive exemption approval to the hiring freeze.

2. Aging Inventory Report.

Mr. Ixta provided an overview of this item (**see Attachment __**).

Mr. Ramirez inquired if additional information may be considered regarding enforcement matters. Mr. Duke stated the only information to be considered is contained in the administrative record.

3. Report on Citations and Fines.

Mr. Ixta stated there was one citation issued for practicing without a permit, which was paid for \$1,000.

4. Reportable Events Report.

There were no comments received for this item.

XI. Committee and Task Force Reports.

A. Report of the Enforcement Program Oversight Committee (EPOC).

1. Report of the September 22, 2010 EPOC Meeting.

Mr. Petersen thanked Mr. Ixta and Mr. Fisher for their presentation to the EPOC.

2. Consideration of Proposed Revisions to Disciplinary Guidelines.

a. Identification of New/Amended Statutes and Regulations Enacted Since Approval of Proposed Revisions at the May 15 and July 24, 2009 CBA Meetings.

It was moved by Mr. Petersen, seconded by Ms. Anderson to adopt the EPOC's recommendation to adopt the proposed revisions to the *Manual of Disciplinary Guidelines and Model Disciplinary Orders, 6th Edition, 2005*. Mr. Petersen withdrew this motion for amendment purposes.

It was then moved by Mr. Petersen, seconded by Ms. Taylor and unanimously carried by those present to adopt the

EPOC's recommendation to adopt the proposed revisions to the *Manual of Disciplinary Guidelines and Model Disciplinary Orders, 6th Edition, 2005* and proceed with the process to amend Section 98 of the California Code of Regulations to incorporate the *Manual of Disciplinary Guidelines and Model Disciplinary Orders, 7th Edition, 2010*, by reference.

- b. Proposed Optional Condition of Probation – Prohibition from Accepting New Clients.

Mr. Petersen stated the EPOC felt that the CBA has adequate authority regarding this matter and does not recommend any changes at this time.

- 3. Investigative Process – Does the CBA have a Major Case Program?

Mr. Petersen stated that the CBA does not have a major case program and that all complaints against licensees are treated with the same process. Mr. Petersen further stated that cases are dependent upon the complexity and not the size of the firm.

Ms. Bowers stated the Case Aging Report will be modified going forward to provide details for cases that are delayed beyond the 12-18 month period.

- 4. Review of Mediation Guidelines.

Mr. Petersen stated the EPOC reviewed the CBA's Mediation Guidelines and does not recommend any changes at this time.

- 5. Consideration of Delegating to the Executive Officer the Authority to Approve and Sign Default Decisions, Proposed Decisions, and Specified Stipulated Settlements.

It was moved by Mr. Petersen, and seconded by Ms. Taylor to adopt the EPOC's recommendation that the CBA approve delegation of the authority to the Executive Officer to sign default decisions and stipulated decisions for revocation or surrender of license on behalf of the CBA. Mr. Petersen withdrew this motion for amendment purposes.

Mr. Ramirez inquired if the CBA will be delegating its ability to oversee this process to the Executive Officer. Mr. Petersen confirmed the recommendation and stated that it is the current practice of many boards.

Mr. Bermudez recommended an alternate solution of placing all items under a consent agenda.

Mr. Walker stated that the CBA has 30 days to reconsider any decision should it disagree with that of the Executive Officer.

CBA members discussed the terms and conditions that would apply to this delegation.

Mr. Sonne suggested incorporating language within the stipulation to expressly state that the license holder is waiving the right to have the stipulation approved by the CBA. Mr. Sonne further stated there is a pending legal issue regarding the propriety of handling default decisions and it is his suggestion to remove the consideration of default decisions until this matter has been concluded.

CBA members discussed the pros and cons with delegating the authority to the Executive Officer and the differences between default decisions and stipulated decisions. Mr. Duke provided clarification regarding the current delegated authority and the proposed delegated authority.

MS. Bowers stated the intent of the delegation was to expedite enforcement matters. Ms. Bowers stated the downfall is the loss of CBA member deliberation. Ms. Bowers further stated an alternate option regarding these matters would be the mail vote process.

It was moved by Mr. Petersen, seconded by Ms. Taylor and unanimously carried by those present to adopt and approve the delegation of authority to the Executive Officer to sign stipulated decisions for revocation or surrender of license on behalf of the CBA.

Mr. Bermudez suggested all enforcement actions be considered via mail vote.

Mr. Petersen suggested the CBA reconsider the mail vote process and consent agenda at a future meeting.

B. Report of the Committee on Professional Conduct (CPC).

1. Report of the July 28, 2010 CPC Meeting.

a. Consideration of Regulatory Language for Section 1.5 – Delegation of Certain Functions.

Ms. LaManna stated the CPC recommends that the CBA approve the language of the proposal for this item.

Ms. Brough stated it is her opinion that the authority should be

assigned to the individual and not the position.

It was moved by Mr. Driftmier to adopt and approve the regulatory language and incorporate changes to mirror the delegation of authority language adopted by the EPOC. Mr. Driftmier later withdrew this motion.

Ms. Taylor opposed the incorporation of language in the regulation and suggested the CBA issue the delegation of authority letter to each Executive Officer in order to maintain control of what is being delegated.

It was moved by Ms. Taylor, seconded by Ms. Brough and carried by those present to not move forward with the regulatory change. Ms. LaManna and Ms. Bell opposed.

- b. Discussion on a Retired Option for CPA/PA License.

Ms. LaManna stated that this item will be covered under Agenda Item XI.B.2.b. – Continued Consideration of a Retired Option for CPA/PA License.

- c. Qualifications Committee (QC) Recommendation Regarding Defining Supervision in CBA Regulations Sections 12 and 12.5.

It was moved by Ms. LaManna, seconded by Ms. Chi and carried by those present to adopt the CPC's recommendation that the CBA proceed with rulemaking to incorporate the recommendations made by the QC. Mr. Petersen abstained.

- d. QC Recommendation Regarding Further Defining General Accounting Experience in CBA Regulation Section 12.

The CBA took no action regarding this item.

- 2. Report of the September 22, 2010 CPC Meeting.

- a. Consideration of Regulatory Language for Section 48.3 – Peer Review Provider Reporting Responsibilities.

It was moved by Mr. Driftmier, seconded by Ms. Anderson and unanimously carried by those present to adopt the CPC's recommendation that the CBA approve the language of the proposal with the 60 day requirement for the reporting of deficiencies.

- b. Continued Consideration of Retired Status for CPA/PA Licensure.

Ms. Taylor inquired regarding the instance of licensees becoming deceased. Ms. LaManna stated the CPC is not recommending this be incorporated into legislation at this time and suggested it be added into regulation.

Ms. Bowers stated the CBA is working with the DCA on the development of a uniform policy regarding matters like this. Ms. Bowers further stated that it may be appropriate for the CBA to postpone its decision on the length of time associated with the renewal of retired individuals until such a policy is in place.

Ms. Pearce stated that staff can further research and provide more information on what other boards/bureaus have in place regarding this matter.

Mr. Stanley stated that the legislation provided in November will be permissive to allow the CBA to craft the language as it wishes.

It was moved by Ms. LaManna, seconded by Mr. Bermudez and unanimously carried by those present to adopt the CPC's recommendation that the CBA do the following:

- **Direct staff to prepare permissive legislative language that will allow the CBA to establish a retired status and bring that language to the Legislative Committee in November 2010.**
- **Direct the CPC to begin deliberating regulatory language to implement the legislation, should it become law.**
- **Adopt the following general guidelines for staff to use as they prepare the legislation and regulation discussions:**
 - **A licensee may not be placed in retired status if there are pending enforcement actions.**
 - **A licensee must have 20 years in the profession to apply for retired status.**
 - **In addition to the 20 years in the profession, the licensee must be either disabled or a minimum of 55 years old.**
 - **The application fee for retired status be set at \$100 and the fee for restoration of the license be set at \$200.**
 - **A retired status licensee shall use the term "Retired"**

when using the CPA designation.

- **In order to restore a retired license to an active status, a licensee shall meet the same requirements as on converting from an inactive status.**

C. Report of the Legislative Committee (LC).

1. Report of the July 28, 2010 LC Meeting.

- a. Update on Bills on Which the CBA Has Taken a Position (AB 797, AB 1215, AB 1659, AB 1787, AB 1899, AB 1993, AB 2091, AB 2130, AB 2466, AB 2494, AB 2537, AB 2603, AB 2652, AB 2738, SB 389, SB 691, SB 942, SB 1111, SB 1171, SB 1490, SB 1491).

Mr. Stanley stated that nothing has significantly changed with the referenced bills and no action is necessary at this time.

D. Report of the Accounting Education Committee (AEC).

- 1. Report of the June 23, 2010 AEC Meeting.
- 2. Report of the September 3, 2010 AEC Meeting.

Mr. Driftmier stated the AEC has accomplished many things in its first three meetings. Mr. Driftmier stated a majority of the AEC felt that of the 20 additional units in accounting study, six would be designated for additional accounting classes and the remaining 14 would be designated for business-related or other courses related to accounting or business courses. Mr. Driftmier further stated that Mr. Davila, AEC Chair, will be working with CBA staff to further define the language for this proposal.

E. Report of the Ethics Curriculum Committee (ECC).

- 1. Update on ECC Appointments (Written Report Only).

There were no comments regarding this item.

- 2. Report of the September 21, 2010 ECC Meeting.

Mr. Driftmier stated the ECC met September 21, 2010 and began discussion on its charge of defining the 10 units of ethics study that will be required for licensure beginning January 1, 2014.

Mr. Duke stated that the DCA would be providing a legal opinion regarding graduate credits.

3. Tentative Staff Developed ECC Timeline of Activities.

There were no comments regarding this item.

F. Report of the Peer Review Oversight Committee (PROC).

There was no report for this item.

G. Report of the EAC.

1. No Report.

H. Report of the QC.

1. Report of the July 29, 2010 QC Meeting.

Mr. Eckley stated the QC met on July 29, 2010 and there were ten appearances; eight were personal, seven were approved, and one was not approved. Mr. Eckley stated there were two Section 69 appearances; one was approved and one not approved. Mr. Eckley stated the QC conducted its annual internal audit of staff-approved applications made between July 2009 and December 2009, and found no exceptions and concurred with staff's recommendations. Mr. Eckley further stated the QC requested that staff research the potential of converting to an electronic mail process in efforts of savings on the cost of postage.

XII. Adoption of Minutes

A. Draft Minutes of the April 21, 2010 QC Meeting.

B. Draft Minutes of the May 12, 2010 EPOC Meeting.

C. Draft Minutes of the June 23, 2010 AEC Meeting.

D. Draft Minutes of the July 28, 2010 CBA Meeting.

E. Draft Minutes of the July 28, 2010 CPC Meeting.

F. Draft Minutes of the July 28, 2010 LC Meeting.

It was moved by Ms. Anderson, seconded by Ms. Taylor and unanimously carried by those present to approve agenda items XII. as a group.

XIII. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

1. Update on AICPA State Board Committee.

Mr. Driftmier stated the State Board Committee will be meeting in October 2010 to further discuss the CPA examination.

Mr. Ramirez acknowledged Mr. Driftmier's efforts in serving on various committees on behalf of the profession and the consumers of California.

2. AICPA Peer Review Program Exposure Draft, June 1.

Mr. Fisher provided an overview of the memorandum for this item (see Attachment __).

It was moved by Mr. Petersen, seconded by Ms. Bell and unanimously carried to refer the exposure draft to the PROC.

B. National Association of State Boards of Accountancy (NASBA).

1. Update on NASBA Committees.

a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated there will be an ALD presentation at the October CBA Working Conference.

b. Board Relevance & Effectiveness Committee.

There was no report for this item.

c. Compliance Assurance Committee.

There was no report for this item.

d. Education Committee.

Ms. LaManna stated that she has retired from the committee.

e. Global Strategies Committee.

There was no report for this item.

f. Uniform Accountancy Act Committee (UAA).

Mr. Driftmier stated the UAA will meet in the coming week.
Mr. Driftmier further stated the UAA has indicated its interest in the

actions of the AEC and ECC.

g. UAA Mobility Implementation.

There was no report for this item.

2. NASBA Regional Director's Focus Questions.

Mr. Rich provided an overview of the memorandum for this item **(see Attached __)**.

It was moved by Ms. Bell, seconded by Mr. Driftmier and unanimously carried by those present to approve the staff recommended responses to the focus questions.

3. NASBA Exposure Draft – Semi-Autonomy for State Boards.

Mr. Rich provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Petersen recommended that the CBA not provide comment regarding this matter.

The CBA took no action regarding this item.

C. Participation on National Committees.

Ms. Daniel stated that although the deadline for submitting interest forms has lapsed, there is still time for CBA members to indicate interest regarding participation on a NASBA committee through October 2010.

XIV. Closing Business.

A. CBA Member Comments.

No comments were received.

B. Comments from Professional Societies.

Mr. Schultz, on behalf of CalCPA thanked Mr. Harris and Mr. Duke for their service to the CBA.

Mr. Harris thanked the CBA and all interested parties for the positive experience during his term of service.

Mr. Ramirez acknowledged Mr. Harris for his service to the CBA and the consumers of California.

Ms. Bowers acknowledged and thanked Mr. Harris for his contributions and going above and beyond the call of duty in assisting the CBA staff with its enforcement matters.

C. Public Comments.

No comments were received.

D. Agenda Items for Future CBA Meetings.

No agenda items were received.

E. Press Release Focus.

1. Recent Press Releases.

Ms. Hersh stated there will be a press release regarding the CBA's decision to post accusations on its Web site.

Ms. Hersh explained the newly implemented policy regarding legal review and stated that this may delay the issuance of this and all future press releases.

Ms. Taylor inquired if a press release will be issued regarding the retired status. Ms. Hersh confirmed that this matter will be addressed in a separate press release.

The CBA members discussed the importance of issuing press releases in a timely manner.

Mr. Ramirez inquired if the CBA has legal authority to direct staff to issue such press releases contrary to policy. Mr. Duke and Mr. Walker confirmed that the CBA has the implied authority to do so.

Mr. Bermudez stated that this policy is contrary to the mission of the CBA and providing information to consumers.

Ms. Anderson and Mr. Petersen recommended the CBA follow the outlined policy regarding this matter

It was moved by Mr. Bermudez, seconded by Mr. Driftmier and carried by those present to direct staff to immediately issue the press release pursuant to the legal authority of the CBA and provide the DCA with a copy for documentation purposes. Ms. Anderson, Ms. Bell, Mr. Petersen, and Ms. Taylor opposed. Ms. Chi abstained.

XV. Adjournment.

President Ramirez adjourned the meeting at 3:44 p.m. on Thursday, September 23, 2010.

Manuel Ramirez, President

Marshal Oldman, Secretary-Treasurer

Veronica Daniel, Executive Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



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CBA Agenda Item XIII.B.
January 27-28, 2011

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

DRAFT
1-12-11

MINUTES OF THE
NOVEMBER 17-18, 2010
CBA MEETING

Crowne Plaza Irvine
 17941 Von Karman Ave.
 Irvine, CA 92614
 Telephone: (949) 863-1999
 Fax: (949) 474-7236

Roll Call and Call to Order.

President Manuel Ramirez called the meeting to order at 1:04 p.m. on Wednesday, November 17, 2010 at the Crowne Plaza Hotel in Irvine. The CBA members heard Agenda Items I – VI. The CBA members convened into executive closed session at 2:55 p.m. to deliberate Agenda Item III.A., and at 4:01 p.m. to deliberate Agenda Item III.B. The CBA members then convened into closed session at 4:17 p.m. to deliberate Agenda Items III.C. – E. The meeting reconvened into open session at 4:25 p.m., and the meeting adjourned at 4:46 p.m. CBA President Ramirez reconvened the meeting to order at 9:00 a.m. on Thursday, November 18, 2010, and the meeting adjourned at 12:15 p.m.

CBA Members

November 17, 2010

Manuel Ramirez, President	1:04 p.m. to 4:46 p.m.
Sally Anderson, Vice President	1:04 p.m. to 4:46 p.m.
Marshal Oldman, Secretary-Treasurer	Absent.
Diana Bell	Absent.
Rudy Bermudez	1:33 p.m. to 4:46 p.m.
Michelle Brough	1:04 p.m. to 4:46 p.m.
Angela Chi	Absent.
Donald Driftmier	1:04 p.m. to 4:46 p.m.
Herschel Elkins	1:04 p.m. to 4:46 p.m.
Louise Kirkbride	1:04 p.m. to 4:46 p.m.
Leslie LaManna	1:04 p.m. to 4:46 p.m.
Robert Petersen	1:04 p.m. to 4:46 p.m.
David Swartz	Absent.
Lenora Taylor	1:04 p.m. to 4:46 p.m.

CBA Members

November 18, 2010

Manuel Ramirez, President	9:00 a.m. to 12:15 p.m.
Sally Anderson, Vice President	9:00 a.m. to 12:15 p.m.
Marshal Oldman, Secretary-Treasurer	9:00 a.m. to 12:15 p.m.
Diana Bell	Absent.
Rudy Bermudez	9:02 a.m. to 11:30 a.m.
Michelle Brough	9:00 a.m. to 12:15 p.m.
Angela Chi	Absent.
Donald Driftmier	9:00 a.m. to 12:15 p.m.
Herschel Elkins	9:00 a.m. to 12:15 p.m.
Louise Kirkbride	9:00 a.m. to 12:15 p.m.
Leslie LaManna	9:00 a.m. to 12:15 p.m.
Robert Petersen	9:00 a.m. to 12:15 p.m.
David Swartz	Absent.
Lenora Taylor	9:00 a.m. to 12:15 p.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Dan Rich, Assistant Executive Officer
Rich Andres, Information Technology Staff
Veronica Daniel, Board Relations Analyst
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Manager, Licensing Division
Lauren Hersh, Information and Planning Officer
Rafael Ixta, Chief, Enforcement Division
Vincent Johnston, Outreach Analyst
Nick Ng, Manager, Administration Division
Deanne Pearce, Chief, Licensing Division
LaVonne Powell, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice
Matthew Stanley, Legislation/Regulation Analyst

Committee Chairs and Members

Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)
Fausto Hinojosa, Chair, Qualifications Committee (QC)

Other Participants

Tracy Brady, Court Reporter
Rom De Guzman, Petitioner
Gil DeLuna, DCA
Humberto Flores, Administrative Law Judge (ALJ)
Phyllis Gallagher, Counsel for Petitioner
Ed Howard, CPIL

Joe Petito, The Accountants Coalition
Gary Porter, Petitioner
Jonathan Ross, The Accountants Coalition
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Mary Work, Counsel for Petitioner

I. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 1:04 p.m. on Wednesday, November 17, 2010.

II. Report of the President.

A. Update on Peer Review Implementation.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Ramirez inquired regarding the status of testing to validate the self-certification of attest services. Mr. Ixta stated there are plans to outreach to those who have not responded and provide notification that failure to respond may be cause for discipline. Mr. Ixta further stated that the Enforcement Division is researching options to properly validate the self-certifications.

B. DCA Legal Presentation – Litigation Against CBA Members **(LaVonne Powell)**.

Ms. Bowers introduced LaVonne Powell, newly-assigned legal counsel for the CBA.

This item was deferred and took place after Agenda Item II.C.

C. Resolution for Retiring CBA Member.

It was moved by Ms. Anderson, seconded by Mr. Driftmier and carried by those present to adopt the resolution for retiring CBA Member Andrea Valdez. Ms. Taylor abstained.

The CBA then heard Agenda Item II.B., DCA Legal Presentation – Litigation Against CBA Members.

Ms. Powell provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. Kirkbride inquired if there are any circumstances regarding litigation where board members would be required to obtain private legal counsel.

Ms. Powell stated if there was a determination made by the Attorney General's (AG) Office in consultation with the CBA that the board member clearly acted outside of his/her duties, he/she would not be represented by the AG's Office and should retain private legal counsel.

D. 2011 CBA Meeting Locations.

It was moved by Mr. Petersen, seconded by Ms. Taylor and unanimously carried by those present to adopt the 2011 CBA meeting dates with an amendment to relocate the March meeting to Southern California and the September meeting to Northern California.

E. CBA Member Committee Interest Survey.

Mr. Ramirez requested that CBA members provide completed interest surveys to CBA staff by December 8, 2010.

F. Discussion on Legal Opinions Regarding Loans to the General Fund.

Mr. Rich provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Driftmier stated that he would like to see the outstanding loans to the General Fund listed on the CBA financial statement as a receivable. Mr. Rich stated there is a separate attachment to the current financial statement, which shows a detailed account of all outstanding loans. Mr. Rich further stated that CBA staff will continue to track and report this information to the CBA.

Mr. Petersen stated that he was in favor of the loans being listed on a separate schedule.

Ms. Taylor inquired if the CBA could go back and request payment terms on previous loans. Mr. Ramirez stated he would like staff to research and provide clarification regarding the terms of repayment. Mr. Ramirez further stated that if repayment terms cannot be secured on previous loans, the CBA should then seek repayment.

Ms. Kirkbride stated the real issue is whether the CBA is able to operate with loans in place. Ms. Kirkbride inquired regarding what would happen if the CBA were to run out of funds to operate. Mr. Ramirez stated in that event, the CBA would be required to either raise its fees, or request repayment of the loans.

Mr. Howard suggested that the CBA request repayment, providing detailed analysis regarding the affect the loans have on the CBA and consumer protection. Mr. Driftmier stated the CBA should also build in

the continued request for funds to be allocated to the ICPA position.

Mr. Ramirez requested for CBA staff to further research this issue and provide the CBA with a recommendation regarding this matter.

III. Petitions, Stipulations, and Proposed Decisions [Closed Session Government Code Section 111269(c)(3)]. Petition Hearings are Public Before the CBA with a Subsequent Closed Session.

A. Gary A. Porter – Petition for Modification of Probation.

Mr. Porter appeared before the CBA members to petition for modification of his probation.

ALJ Humberto Flores and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Flores will prepare the decision.

B. Rom De Guzman – Petition for Reinstatement of Revoked Certificate.

Mr. De Guzman appeared before the CBA members to petition for reinstatement of his revoked certificate.

ALJ Flores and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Flores will prepare the decision.

C. Felix Wasser – Proposed Decision.

D. Richard M. Large – Stipulated Settlement.

E. Jack Garrett – Stipulated Settlement.

CBA members considered agenda items III.C. – E. in closed session.

IV. Report of the Vice President.

A. Recommendation for Appointment of Enforcement Advisory Committee (EAC) Chair.

It was moved by Mr. Bermudez, seconded by Mr. Petersen and unanimously carried by those present to accept the proposed recommendation and appoint Cheryl Gerhardt as Chair of the EAC. Ms. Taylor and Mr. Driftmier were temporarily absent.

B. Recommendation for Appointment of EAC Vice Chair.

It was moved by Mr. Bermudez, seconded by Ms. Brough and

unanimously carried by those present to accept the proposed recommendation and appoint James Rider as Vice Chair of the EAC. Ms. Taylor and Mr. Driftmier were temporarily absent.

- C. Recommendation for Appointment of Qualifications Committee (QC) Chair.

It was moved by Mr. Bermudez, seconded by Mr. Elkins and unanimously carried by those present to accept the proposed recommendation and reappoint Fausto Hinojosa as Chair of the QC.

- D. Recommendation for Appointment of QC Vice Chair.

It was moved by Mr. Bermudez, seconded by Ms. Kirkbride and unanimously carried by those present to accept the proposed recommendation and reappoint Maurice Eckley as Vice Chair of the QC.

- V. Report of the Secretary/Treasurer.

- A. Discussion of Governor's Budget.

- B. FY 2010/2011 First Quarter Financial Report.

Mr. Ng provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Ramirez stated that per DCA, the hiring freeze would remain in effect for the remainder of the year. Mr. Ramirez further stated it does not appear that any exceptions are being made regarding the freeze.

Mr. Driftmier inquired if the CBA is currently authorized to hire contractors. Ms. Bowers stated there are contracted consultants in place; however, the CBA is prohibited from hiring any new contractors at this time.

Mr. Ramirez inquired regarding the status of the licensing fee reduction. Ms. Bowers stated the regulation is currently with the Department of Finance for review.

- C. Options for Reporting Financial Information.

Mr. Ng provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. Kirkbride suggested that the CBA work with other boards/bureaus to determine and adopt best practices in reporting financial information.

Mr. Bermudez complimented the efforts of CBA staff in the preparation of

this information.

Ms. Anderson complimented staff's efforts and stated she is in favor of incorporating a breakdown by department. Ms. Anderson stated she is also in favor of the five-year summary with charts.

Mr. Ramirez complimented staff's efforts and suggested utilizing the current format and incorporating the five-year summary with an annual projection.

VI. Public Comments.

No public comments were received.

VII. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 9:00 a.m. on Thursday, November 18, 2010.

VIII. Report of the Executive Officer.

A. Update on 2010/2012 CBA Communications and Outreach Plan.

Ms. Hersh provided an overview of the memorandum for this item **(see Attachment __)**.

Ms. Anderson inquired if there are ideas to increase the number of followers of CBA on Twitter. Ms. Hersh stated the Outreach Committee is working on outreach to educators at colleges and universities.

Mr. Ramirez requested for staff to provide the CBA with information regarding the best usage of Twitter at the January 2011 CBA meeting. Mr. Ramirez stated the CBA should have an opportunity for input regarding the messages being relayed to the public.

B. DCA Director's Report.

1. Update on Hiring Freeze.
2. Performance Measures.
3. Update on BreEZe.

Agenda Items B.1. – 3. were deferred and took place after agenda item VIII.F.

C. CBA Succession Plan.

Ms. Bowers provided an overview of the memorandum for this item **(see Attachment __)**.

No comments were received regarding this item.

D. CBA Annual Report.

Mr. Johnston provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Ramirez stated that the format and contents of the Annual Report are exceptional.

E. Sunset of Section 5050(b) – Temporary and Incidental Practice.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment __)**.

Mr. Petersen expressed concern regarding the potential interruption in service to California consumers who may be serviced by a provider presenting practicing under temporary and incidental practice. Mr. Stanley stated there will need to be outreach to consumers and providers.

Mr. Oldman inquired if there is a potential solution via emergency regulations. Mr. Stanley stated that in order to promulgate emergency regulations, the circumstances would need to fall under the category of health and safety. Ms. Bowers stated the alternate temporary solution for providers is the practice privilege authority.

Mr. Bermudez suggested a special meeting to discuss the topic of mobility.

CBA members further discussed this matter and options for notification to the public.

Ms. Anderson suggested a short term solution for the CBA to publicize notification on the CBA Web site and in the long term, to review practice privilege to determine if flexibility is there.

Mr. Bermudez suggested the CBA should discuss the topic of mobility in its entirety. It was determined by Mr. Ramirez that the discussion on mobility would take place on the first day of the January 2011 CBA meeting.

Ms. Bowers stated that staff will draft proper notice to inform licensees of changes so they can comply without creating mass panic. Ms. Bowers further stated that staff will explore where the notice should be displayed.

Mr. Ross offered his assistance in drafting of the notice.

Mr. Ramirez requested CBA staff to handle the drafting of the notice to licensees and provide a copy to CBA members for review and comments.

F. Consideration of Adoption of Proposed Regulation – Peer Review Provider Reporting Responsibilities.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment __)**.

It was moved by Ms. LaManna, seconded by Ms. Taylor and unanimously carried by those present to adopt the proposed regulation.

The CBA then heard Agenda Items under VIII.B., DCA Director's Report.

1. Update on Hiring Freeze.

Mr. DeLuna stated the hiring freeze is still in effect and the exception process is very stringent.

2. Performance Measures.

Mr. DeLuna stated the performance measures will be posted on the DCA's Web site by the end of November 2010. Mr. DeLuna further stated that the performance measures will be updated on a quarterly basis.

3. Update on BreEZe.

Mr. DeLuna stated the BreEZe project is moving forward on schedule. He stated that the first phase is scheduled for rollout in December 2012. Mr. DeLuna thanked CBA staff for participating in this project.

Ms. Bowers stated that she was advised by Bill Young that it was highly unlikely that the CBA's exception requests would move forward and receive approval.

Mr. Ramirez expressed concern regarding public protection considering the staffing in the Enforcement Division is below 50 percent. Mr. DeLuna stated that he would provide follow up to Ms. Bowers regarding this matter.

G. Update on Current Projects List (Written Report Only).

There were no comments received for this item.

IX. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce provided an overview of the memorandum for this item **(see Attachment __)**.

There were no comments received for this item.

X. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Enforcement Case Activity and Status Report.

Mr. Ixta provided an overview of this item **(see Attachment __)**.

Ms. Bowers advised CBA members that enforcement timeframes are being tracked and advertised on the DCA's Web site. Ms. Bowers further stated this will become a significant issue if the CBA does not receive some relief in terms of staffing in the Enforcement Division.

Mr. Ramirez requested an additional column be added to the report to indicate an average days to close for all cases.

2. Aging Inventory Report.

Mr. Ixta provided an overview of this item **(see Attachment __)**.

Ms. Kirkbride suggested publishing the median and mean regarding case aging.

3. Report on Citations and Fines.

Mr. Ixta provided an overview of this item **(see Attachment __)**.

Mr. Ixta stated that staffing issues have affected the CBA's ability to issue citations and fines.

Mr. DeLuna suggested that the CBA look into the DCA's mediation program for an interim solution to the less egregious matters.

4. Reportable Events Report.

Mr. Ixta provided an overview of this item **(see Attachment __)**.

There were no comments received for this item.

B. Update on Enforcement Improvements.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment __)**.

There were no comments received for this item.

C. Report on Implementation of Enforcement Performance Measures.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment __)**.

There were no comments received for this item.

XI. Committee and Task Force Reports.

A. Report of the Enforcement Program Oversight Committee (EPOC).

1. Report of the November 17, 2010 EPOC Meeting.
2. Discussion on Probationers Being Required to Pay for the Cost of Probation Monitoring.

Mr. Elkins stated that the EPOC reached a consensus to recommend to the CBA that no changes be made to the current process.

3. Discussion of Documents Served with Accusations/Statements of Issue.

Mr. Elkins stated that the EPOC reached a consensus based on the current information and documents provided that licensees should be able to understand his or her rights and the disciplinary process.

B. Report of the Committee on Professional Conduct (CPC).

1. Report of the November 17, 2010 CPC Meeting.
2. Discussion on Whether Existence of Liability Insurance Should be a Mitigating Factor in Enforcement Actions.

The CBA took no action on this item.

C. Report of the Legislative Committee (LC).

1. Report of the November 17, 2010 LC Meeting.
2. Update on Bills Which the CBA Has Taken a Position.

3. Proposed Legislation – Retirement Status.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC's recommendation that the CBA sponsor the proposed language. Mr. Petersen opposed.

4. Proposed Legislation – Restatements.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC's recommendation that the CBA sponsor the proposed language as modified by the LC to also include restatements that are solely the result of changes in law, rules, or standards. Mr. Elkins abstained.

5. Proposed Legislation – Peer Review Sunset Extension.

It was moved by Ms. Brough, seconded by Ms. Anderson and unanimously carried by those present to adopt the LC's recommendation that the CBA sponsor the proposed language.

6. Proposed Legislation – Webcast Exemption.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC's recommendation that the CBA sponsor the proposed language with direction to staff to correct language to specify which matters can be on the agenda. Ms. Kirkbride, Mr. Elkins, and Mr. Petersen opposed.

7. Proposed Legislation – Loans to the General Fund.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC's recommendation that the CBA sponsor the proposed language. Ms. Kirkbride abstained. Mr. Petersen opposed.

D. Report of the Accounting Education Committee (AEC).

There was no report for this item.

E. Report of the Ethics Curriculum Committee (ECC).

There was no report for this item.

F. Report of the Peer Review Oversight Committee (PROC).

1. Report of the November 9, 2010 PROC Meeting.

Ms. Corrigan stated that the PROC held its inaugural meeting on

November 9, 2010 and was provided an overview and presentation on the peer review process. Ms. Corrigan stated the PROC will be meeting next in January 2011 and continue its efforts towards meeting its mission.

G. Report of the EAC.

1. Report of the November 4, 2010 EAC Meeting.

This item was deferred to take place at the January 2011 CBA meeting.

H. Report of the QC.

There was no report for this item.

XII. Adoption of Minutes

A. Draft Minutes of the September 22-23, 2010 CBA Meeting.

This item was deferred to take place at the January 27-28, 2011 CBA meeting.

B. Draft Minutes of the September 22, 2010 CPC Meeting.

It was moved by Ms. LaManna, seconded by Mr. Oldman and carried by those present to approve the draft minutes of the September 22, 2010 CPC meeting. Ms. Brough and Mr. Elkins abstained. Mr. Bermudez was temporarily absent.

C. Draft Minutes of the September 22, 2010 EPOC Meeting.

It was moved by Mr. Elkins, seconded by Mr. Oldman and carried by those present to approve the draft minutes of the September 22, 2010 EPOC meeting. Ms. Brough abstained.

D. Minutes of the May 6, 2010 EAC Meeting.

It was moved by Mr. Oldman, seconded by Ms. Taylor and carried by those present to approve the draft minutes of the May 6, 2010 EAC meeting. Ms. Brough and Mr. Elkins abstained.

XIII. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

1. Update on AICPA State Board Committee.

There was no report for this item.

B. National Association of State Boards of Accountancy (NASBA).

1. Update on NASBA Committees.

a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated there are 46 states either participating or committed to participating in ALD, and over half a million records of licensees in the ALD system. Ms. Bowers stated that NASBA plans to launch ALD to the public in the first quarter of 2011.

b. Board Relevance & Effectiveness Committee.

Mr. Oldman stated the Board Relevance & Effectiveness Committee has completed and passed on its Report on Board Independence to NASBA. Mr. Oldman stated that he believes that NASBA will promote this effort for all states.

c. Compliance Assurance Committee.

There was no report for this item.

d. Global Strategies Committee.

Mr. Bermudez stated the Global Strategies Committee has not met. Mr. Bermudez stated that he attended NASBA's Annual Meeting and the emphasis was focused on NASBA's role internationally and mobility.

e. Uniform Accountancy Act Committee (UAA).

Mr. Driftmier stated the UAA concluded its discussions regarding CPA firm names. Mr. Driftmier further stated this topic will no longer be pursued.

f. UAA Mobility Implementation.

There was no report for this item.

2. NASBA Regional Director's Focus Questions.

Mr. Rich provided an overview of the memorandum for this item (see Attachment __).

It was moved by Mr. Bermudez, seconded by Mr. Driftmier and unanimously carried by those present to approve recommended

responses to the NASBA Regional Director's Focus Questions.

XIV. Officer Elections.

A. President.

It was moved by acclamation and unanimously carried to elect Ms. Sally Anderson as President of the CBA.

B. Vice President.

It was moved by acclamation and unanimously carried to elect Mr. Marshal Oldman as Vice President of the CBA.

C. Secretary/Treasurer.

It was moved by acclamation and unanimously carried to elect Ms. Leslie LaManna as Secretary/Treasurer of the CBA.

XV. Closing Business.

A. CBA Member Comments.

CBA members expressed thanks to Mr. Ramirez for his service as President and welcomed new CBA officers.

Mr. Ramirez expressed his appreciation to staff and outgoing CBA members.

B. Comments from Professional Societies.

Ms. Tindel and Mr. Howard expressed thanks to Mr. Ramirez for his dedication and service.

C. Public Comments.

No public comments were received.

D. Agenda Items for Future CBA Meetings.

1. CPC Charge Regarding International Delivery of the Uniform CPA Examination.

No additional agenda items were received.

E. Press Release Focus.

1. Recent Press Releases.

Ms. Hersh stated she will issue an immediate post-CBA meeting press release regarding the officer elections and a separate press release regarding the temporary and incidental matter.

XVI. Adjournment.

President Ramirez adjourned the meeting at 12:15 p.m. on Thursday, November 18, 2010.

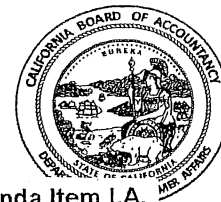
Manuel Ramirez, President

Marshal Oldman, Secretary-Treasurer

Veronica Daniel, Executive Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



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QC Meeting Agenda Item I.A.

January 26, 2011

Department of Consumer Affairs
California Board of Accountancy

CBA Agenda Items XIII.C
January 27-28, 2011

Minutes of Meeting
July 29, 2010
CPA Qualifications Committee

California Board of Accountancy
2000 Evergreen St. Ste 250
Sacramento, CA 95815

The regularly scheduled meeting of the Certified Public Accountant Qualifications Committee (QC) of the California Board of Accountancy (CBA) was called to order at approximately 10:05 a.m. on July 29, 2010, by QC Chair, Fausto Hinojosa.

QC Members Present

Fausto Hinojosa, Chair
Maurice Eckley, Jr., Vice-Chair
Gary Bong
Michael Haas
Alan Lee
Kristina Mapes
Gary O'Krent
Robert Ruehl
Ash Shenouda
Jeremy Smith

CBA Liaison

Angela Chi

Staff Present

Patti Bowers, Executive Officer
Melissa Cardenas, Licensing Analyst
Dominic Franzella, Renewal & Continuing Competency, Client Services Manager
Stephanie Hoffman, Licensing Coordinator
Flora Lopes, Licensing Technician

Kris McCutchen, Licensing Manager
Deanne Pearce, Chief, Licensing Division
Liza Walker, Examination and Practice Privilege Manager

QC Members Absent

Carlos Aguila
Brian Cates
Bobbie Hales
Charles Hester
Casandra Moore Hudnall
James Woyce

I. CHAIRPERSON'S REPORT

- A. Approval of the April 21, 2010 QC Meeting Minutes.

It was moved by Ms. Mapes, seconded by Mr. Lee and unanimously carried to adopt the minutes of the April 21, 2010 QC Meeting.

- B. Report of the May 12-13, 2010 and July 28, 2010 CBA Meetings.

Mr. Hinojosa provided a report of the May 12-13, 2010 and July 28, 2010 CBA meetings. Items of interest were reported on, including:

CBA member and Committee Appointments.

May 12-13:

1. Mr. Donald Driftnier was appointed to the Ethics Curriculum Committee and will serve as Chair.

July 28:

1. QC Member Gary Bong was appointed to the Peer Review Oversight Committee (PROC).
2. Ms. Casandra Moore Hudnall was appointed to the QC.

The CBA will be meeting with the Department of Consumer Affairs (DCA) to determine when CBA can participate in the credit card payment pilot program.

Deanne Pearce, Licensing Chief and Fausto Hinojosa, QC Chair, presented to the Committee On Professional Conduct (CPC), the QC's recommendations in regard to further defining supervision and further defining general experience. After deliberation, the CPC approved the QC's recommendations, however, due to time constraints, the recommendations to the CBA were deferred to the September 2010 CBA meeting.

The CBA confirmed its decision to continue the CBA's current policy of not posting pending accusations to the Web site and continue to post the entire accusation and decision once the decision is effective. However, the DCA will begin to post all CBA's accusations on its Web site by mid-August 2010.

II. STAFF REPORT

A. Update on Staffing.

Ms. McCutchen provided a report on the Initial Licensing Unit, which included the Licensing Division Activity Report and a report of current staffing. Items of interest were:

- The Initial Licensing Unit currently has one vacancy, however the CBA will be determining whether to fill the position within the Initial Licensing Unit or in a different unit, based upon the current needs of the CBA.
- The CBA's Outreach Committee will begin utilizing social media (Facebook and Twitter) to assist with the CBA's outreach plan.
- CBA staff will be contacting QC members to determine if they would like to have QC materials electronically sent to them via email instead of via US mail.

B. Processing Timeframes.

- The Initial Licensing Unit is processing license applications within 20 days.

III. OTHER BUSINESS

A. Internal Audit of Approved Applications for Licensure [Closed Session in Accordance with Government Code Section 11126(c)(2)]

The QC conducted its annual internal audit of one percent of randomly selected staff approved applications for licensure. A total of 2088 files were approved from January 1, 2010 through June 30, 2010. The QC reviewed 21 files and concurred with staff's approval of all applications.

IV. PUBLIC COMMENT.

None

V. AGENDA ITEMS FOR FUTURE CPA QUALIFICATIONS COMMITTEE MEETINGS

- Approval of July 29, 2010 QC minutes.
- Recap of the September 2010, November 2010, and January 2011 CBA meetings.
- Educational Presentation on Peer Review and New Continuing Education Requirements.
-

VI. INTERVIEWS OF INDIVIDUAL APPLICANTS [Closed session in Accordance with Government Code Section 11126(c)(2)].

C10-012 – Applicant and her employer appeared for a Section 69 review. Applicant is currently licensed with general experience.

The employer's understanding of the Certificate of Attest Experience was inadequate.

The work performed by the applicant was reviewed and no deficiencies were noted.

Recommendation: Approve.

Firm has been placed on reappearance status.

C10-030 – Applicant and his employer appeared for a Section 69 review. He has 20 months of experience with this employer, with a 24-month experience requirement. Applicant has an additional 31.5 months of experience with another employer.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-002 – Applicant reappeared and presented workpapers for his non-public accounting experience, disputing the deferral of his license with attest experience from his January 2010 appearance. Applicant is currently licensed with general accounting experience.

No evidence was provided that applicant participated in a financial statement audit, performed audit planning, analytical procedures, or drafted financial statements. It was confirmed applicant has no experience in the preparation of full disclosure financial statements.

Recommendation: Defer. In order to satisfy the experience requirements for the authorization to sign attest reports, the applicant must obtain at a minimum, 500 audit hours. Any new experience must be performed under the supervision of a licensee holding a valid active license to practice public accountancy who is authorized to sign attest reports. An affirmatively completed Certificate of Attest Experience in either individual or composite form must be submitted. A determination will then be made as to whether he needs to reappear with work papers for the QC's review.

While applicant is currently licensed with general accounting experience, he is not permitted to sign reports on attest engagements of any kind.

C10-011 – Applicant appeared and presented workpapers for his non-public accounting experience. He has 116 months of experience, with a 24-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-026 – Applicant appeared and presented workpapers for her non-public accounting experience. She has 28 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-027 – Applicant appeared and presented workpapers for her non-public accounting experience. She has 26.75 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-028 – Applicant appeared and presented workpapers for her non-public accounting experience. She has 27.75 months of experience, with a 24-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-029 – Applicant appeared and presented workpapers for her non-public accounting experience. She has 36.75 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-031 – Applicant appeared and presented workpapers for her non-public accounting experience. She has 24 months of experience, with a 24-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-032 – Applicant appeared and presented workpapers for his non-public accounting experience. Applicant is currently licensed with general accounting experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

The following Section 69 reviews took place on May 13, 2010, and are made a part of these minutes.

C10-020 – Applicant and her employer appeared for a Section 69 review. Applicant is disputing the negatively completed Certificate of Attest Experience submitted by her employer. Applicant is currently licensed with general accounting experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work papers reviewed were adequate, however, the review, coupled with the personal interview did not provide sufficient evidence to support the applicant being recommended for licensure without a fully affirmatively completed Certificate of Attest Experience.

Recommendation: Defer. In order to satisfy the experience requirements for the authorization to sign attest reports, the applicant must obtain additional audit experience. Any new experience must be performed under the supervision of a licensee holding a valid active license to practice public accountancy who is authorized to sign attest reports. An affirmatively completed Certificate of Attest Experience in either individual or composite form must be submitted. A determination will then be made as to whether she needs to reappear with work papers for the QC's review.

While applicant is currently licensed with general accounting experience, she is not permitted to sign reports on attest engagements of any kind.

C10-019 – Applicant and his employer appeared for a Section 69 review. Applicant is currently licensed with general experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

The following personal appearance and Section 69 reviews took place on June 24, 2010, and are made a part of these minutes.

C10-021 – Applicant and her employer appeared for a Section 69 review. She has 49.5 months of experience, with a 24-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-022 – Applicant and his employer appeared for a Section 69 review. He has 15.75 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-023 – Applicant and her employer appeared for a Section 69 review. She has 30 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-024 – Applicant and his employer appeared for a Section 69 review. He has 51.25 months of experience, with a 24-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C07-031 – Applicant and his employer appeared for a Section 69 review. He has 42.75 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C10-025 – Applicant appeared and presented workpapers for his non-public accounting experience. Applicant is currently licensed with general accounting experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

The following Section 69 review took place on July 13, 2010, and is made a part of these minutes.

C10-016 – Applicant's employer appeared for a Section 69 review. Applicant is currently licensed with general accounting experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

ADJOURNMENT

There being no further business to be conducted, the meeting was adjourned at 5:00 P.M. on July 29, 2010. The next meeting of the CPA Qualifications Committee will be held on January 26, 2011.

Fausto Hinojosa, Chair

Prepared by Melissa Cardenas, Licensing Analyst.



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Draft

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

CBA Agenda Item XIII.D.
January 27-28, 2011

MINUTES OF THE
September 21, 2010
ETHICS CURRICULUM COMMITTEE (ECC) MEETING

ECC Agenda Item II
January 26, 2011

California Board of Accountancy
 2000 Evergreen Street, Suite 250
 Sacramento, CA 958151
 Telephone: (916) 263-3680

ROLL CALL AND CALL TO ORDER.

Donald Driftmier, Chair, called the meeting of the ECC to order at 10:03 a.m. on Tuesday, September 21, 2010, at the California Board of Accountancy. Mr. Driftmier indicated that to ensure compliance with the Bagley-Keene Open Meeting Act, Section 11122.5(c)(6), if a majority of members of the full California Board of Accountancy (CBA) are present at a committee meeting, members who are not members of that committee may attend the meeting only as observers. CBA members who are not committee members may not sit at the table with the committee, and they may not participate in the meeting by making statements or by asking questions of any committee members.

ECC Members

Donald Driftmier, Chair	10:03 a.m. to 3:04 p.m.
Dave Cornejo	10:03 a.m. to 3:04 p.m.
Gonzalo Freixes	10:03 a.m. to 3:04 p.m.
Gary McBride	10:03 a.m. to 3:04 p.m.
Jon Mikkelsen	10:03 a.m. to 3:04 p.m.
Steven M. Mintz	10:03 a.m. to 3:04 p.m.
Gary Pieroni	10:13 a.m. to 3:04 p.m.
Michael Shames	11:03 a.m. to 3:04 p.m.
Michael Ueltzen	10:03 a.m. to 3:04 p.m.
Robert Yetman	10:03 a.m. to 3:04 p.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Dan Rich, Assistant Executive Officer
 Dominic Franzella, Manager, Licensing
 Cindi Fuller, Licensing Coordinator
 Rich Andres, Information Technology Staff
 Matthew Stanley, Legislation/Regulation Analyst
 Gary Duke, Legal Counsel, DCA

Spencer Walker, Legal Counsel, DCA

Other Participants

Hal Schultz, California Society of Certified Public Accountants (CalCPA)

Jeannie Tindel, CalCPA

Pilar Onate-Quintana, KP Public Affairs

Molly Isbel, KP Public Affairs

Joe Petito, The Accountants Coalition, PWC

Ellen Glazerman, Ernst & Young

Ramona Farrell, Ueltzen & Co.

I. Welcome and Introductions

ECC Chair Donald Driftmier called the meeting to order on September 21, 2010, and asked ECC Members and CBA staff to introduce themselves. Gary Duke, DCA Senior Staff Legal Counsel, introduced Spencer Walker, newly appointed Legal Counsel for the CBA. Mr. Driftmier provided a brief overview on the establishment of the ECC.

II. Introduction to the Bagley-Keene Open Meeting Act

Spencer Walker presented the memorandum (**Attachment 1**) for this item. Mr. Walker recommended that each member attend the Department of Consumer Affairs' board member training. Mr. Walker advised the ECC members that all state bodies are subject to the Bagley-Keene Open Meeting Act, including advisory committees established by the CBA. Mr. Walker explained that the purpose of the Bagley-Keene Open Meeting Act is to facilitate accountability and transparency of governmental activities and protect the rights of citizens to participate in State government deliberations. Mr. Walker provided ECC members powerpoint copies of the Bagley-Keene Open Meeting Act (**Attachment 2**) and copies of "*A Handy Guide to the Bagley-Keene Open Meeting Act 2004*" (**Attachment 3**) prepared by the California Attorney General's Office. Mr. Walker reviewed the top ten rules of the Bagley-Keene Open Meeting Act, as identified by the Department of Consumer Affairs Division of Legal Affairs, and also answered questions regarding the meaning of a serial meeting and the ability to use subcommittees.

III. Economic Travel – Official State Business

Mr. Rich presented the memorandum (**Attachment 4**) for this item on behalf of Deanne Pearce, Chief, Licensing Division. Mr. Rich advised ECC members of the requirement to complete a travel expense claim in order to receive reimbursement for travel expenses and reinforced the importance of using the most economic means of travel to meetings and also to hold meetings at low-cost or no-cost locations. Mr. Rich explained that for future ECC meetings members will receive

a travel memorandum specifying the meeting location, driving directions, information related to airline reservations, and CBA staff contact information.

Member Michael Shames arrived during the presentation of this agenda item and was introduced by Mr. Driftmier.

IV. Overview of the CBA and Common Services Provided by CPAs

Mr. Franzella presented the memorandum (**Attachment 5**) for this item. Mr. Franzella advised ECC members the role of the CBA and the common services provided by Certified Public Accountants (CPAs). This information was provided for contextual purposes as members begin their discussion on the ethics study guidelines.

Mr. Driftmier noted that a number of CBA members sit on various committees through the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA).

V. Overview of Licensure Requirements and the Effects of Senate Bill 819 on the Pathways to Licensure

Mr. Franzella presented the memorandum (**Attachment 6**) for this item.

Mr. Franzella clarified for committee members that Senate Bill (SB) 819 requires the CBA to adopt the ECC's recommendation for ethics study guidelines without making any substantive changes. Mr. Yetman inquired what method is presently used to determine whether a course meets the 24/24 requirement. Mr. Franzella stated that the CBA generally relies on the transcripts.

VI. ECC Directives and Goals

Mr. Franzella presented the memorandum (**Attachment 7**) for this item.

Mr. Mintz questioned whether the directive to determine the appropriateness and feasibility implied that the final recommendation could be less than 10 units or no ethics education. Ms. Tindel stated that as one of the individuals who helped craft the compromise the committee is trying to implement, it was fully understood that it might not be feasible for 10 units to be accomplished. She further stated that the anticipation was if the recommendation was for less than 10 units of ethics education then a statutory change would need to be pursued.

Members questioned the authority in addressing the appropriateness as it is not specifically addressed in the legislative language. Mr. Franzella stated that the appropriateness portion came specifically from the CBA. He stated that at the November 2009 CBA meeting discussions were held that if the ECC came to the conclusion that 10 units were not feasible, the CBA could then go back to the Legislature to pursue a legislative change. Mr. Ueltzen stated he had limited

fingerprints on SB 819 and the intent of stakeholders was to have academia, specifically the ECC and not the profession, study the issue, and if 10 units were not feasible then it was understood legislation would need to be pursued.

Mr. Freixes suggested should members decide to recommend less than 10 units they should also come up with 10 units of curriculum as an option. Mr. Stanley stated that the basic intent of the CBA was to have the ECC present their recommendation of what they think best and then have the CBA go back and try to get the law changed if needed.

Mr. Driftmier requested staff provide information on the impact should the ECC recommend less than 10 units of ethics study.

VII. Discussion Regarding Composition of the 10 Units of Ethics Study Required by Business and Professions Code Section 5093

Ms. Fuller presented the memorandum (**Attachment 8**) for this item.

Mr. Driftmier provided members a copy of an article pertaining to the role schools play in promoting corporate social responsibility (**Attachment 9**), as well as, a sampling of courses taught at the University of California, Berkeley that could possibly pertain to the topic of ethics. Mr. Yetman explained that simply because a course was listed in a course catalog did not mean the course was actually being offered, so if 10 units were found, to assume all of the hours would be attainable to the student over a period of two or three years could be a mistake.

Members provided preliminary input on their particular institution as to the feasibility of teaching a course, students taking a course, and where it would fall in curriculum guidelines. In addition, extensive discussion was held regarding stand alone ethics courses and courses where ethics was embedded.

Ms. Glazerman clarified the terms AQ - academically qualified - and PQ - professionally qualified - and the relevance of the person teaching a course. She further clarified that accreditation has everything to do with the business school but if extension courses are offered outside of the business school they are not necessarily part of the accreditation scope.

Mr. Shames stated that the University of San Diego had two courses specifically dedicated to ethics. Mr. Driftmier expressed that this information would be beneficial to members and requested Mr. Shames provide copies of the course materials.

Mr. Driftmier requested members research their colleges/universities to find where ethics was embedded in courses, the level the course was currently being taught, in what department and who taught the course. Ms. Tindel requested that as part of their research the definition of ethics also be included. Mr. Driftmier agreed and requested the definition of ethics be included in the research.

Members requested staff provide additional information regarding the ethics requirements for other state boards of accountancy. Mr. Ueltzen requested information on the development and implementation of the ethics requirements for the state of Texas.

Mr. Petito raised concerns about California students taking courses outside of California and how those courses, especially courses where ethics was embedded, would meet California standards. He also suggested that there could be some generic number that one could assume a student going through an accredited school in an accounting program would have gotten for embedded ethics courses.

Mr. Mikkelsen requested Mr. Ueltzen provide insight from the industry standpoint and give his perspective regarding when ethics education should take place, what should be taught in relation to ethics, and what might maximize the effectiveness of the ethics education for those individuals actually in practice.

VIII. Comments from Members of the Public.

To assist in calendaring future meetings, Mr. Franzella inquired if there was a particular day of the week that was not good for members. There was a general consensus that future meetings be held on a specific day of the week to assist members in setting their school calendars. Ms. Bowers stated a survey would be sent to members as to their preference.

ADJOURNMENT.

There being no further business to be conducted, the meeting was adjourned at 3:04 p.m. on Tuesday, September 21, 2010.

Donald A. Driftmier, Chair

Prepared by Cindi Fuller, Licensing Coordinator

**CALIFORNIA BOARD OF ACCOUNTANCY**

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CBA Agenda Item XIII.E.
January 27-28, 2011

CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
PEER REVIEW OVERSIGHT COMMITTEE (PROC)

MINUTES OF THE
NOVEMBER 9, 2010
PROC MEETING

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone: (916) 263-3680

PROC Members:

Nancy Corrigan, Chair
Katherine Allanson
Gary Bong
T. Ki Lam
Sherry McCoy
Robert Lee
Seid M. Sadat - Absent

Staff and Legal Counsel:

Patti Bowers, Executive Officer
Dan Rich, Assistant Executive Officer
Rafael Ixta, Chief, Enforcement Division
Paul Fisher, Supervising Investigative Certified Public Accountant
Kathy Tejada, Manager, Enforcement Division
Deanne Pearce, Chief, Licensing Division
Dominic Franzella, Manager, Renewal and Continuing Competency Unit
Nicholas Ng, Manager, Administration
Barbara Coleman, Personnel Analyst
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
April Freeman, Peer Review Analyst

Other Participants:

Jim Brackens, American Institute of Certified Public Accountants (AICPA)
Linda McCrone, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Erica Eisenlauer, Legislative Analyst, DCA

I. Roll Call and Call to Order.

Nancy Corrigan, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 10:16 a.m.

Ms. Corrigan summarized the preparations for the first PROC meeting. Activities included a number of telephone conferences between Ms. Corrigan and CBA staff, members of the AICPA and the CalCPA, and representatives from the State of Texas and the State of Nevada. Ms. Corrigan also attended a meeting with CBA staff on October 6, 2010. Throughout the process, a variety of materials were gathered and a great deal of work was completed. She emphasized that everyone involved has been extremely supportive and understands that peer review is crucial to the quality of public accountancy.

II. Introduction to the Bagley-Keene Open Meeting Act.

Gary Duke gave an overview of the Bagley-Keene Open Meeting Act (Act), which applies to all state bodies except the State Legislature. The purpose of the Act is to ensure that the people's business is performed with openness and transparency; allowing the public to know the reasons behind governmental decisions and have an opportunity to participate in the making of those decisions.

During the discussion, Mr. Duke emphasized that emails are of particular concern because if you "reply to all," you are essentially making a communication to the entire committee in violation of the Act.

Mr. Duke outlined the three essential elements required by the Act:

1. Adequate notice (10 days) of meetings that will be held and the items that will be discussed;
2. Meetings be conducted in open session;
3. Meetings provide the public with an opportunity to comment.

Mr. Duke explained the definition of a "meeting" and gave examples of situations in which a majority of PROC members could be at a single location that would not constitute a meeting. He also outlined the rules for disqualification and abstentions.

Members were advised that it is appropriate for the CBA Executive Officer to communicate with the entire PROC as long as she is not soliciting opinions of other members' comments.

Mr. Duke advised members that knowingly participating in a meeting that violates the Act is a criminal misdemeanor. Further, any action taken by the PROC while in violation of the Act will be declared null and void.

Members were provided with a Guide to the Bagley-Keene Open Meeting Act.

III. Economic Travel – Official State Business.

Nicholas Ng provided highlights from the Department of Consumer Affairs' Travel Guide and advised members that the State has increased its scrutiny of travel expense claims. PROC members were encouraged to use the most economical means of travel.

Mr. Ng provided the following tips to ensure that member's claims are not denied or reduced:

- Time is a factor when claiming meal expenses; claims should be for the actual amount of the expense, up to the maximum rates. No receipts are needed for reimbursement, but should be kept for tax purposes.
- Choices for travel: commercial air, private vehicle, rental car, bus, train, or a combination thereof.
 - Commercial air: the state contracts with Southwest, Alaska, Jet Blue, United and Continental. Southwest is the preferred carrier. Members can make reservations online at SWABIZ or use the State's contracted travel agent, The Travel Store. Even though the State is billed directly, a copy of itinerary must be submitted with the travel claim.
 - Use the most economical parking; typically long-term. A receipt is required for reimbursement over \$10.
 - Rental Car: Enterprise is the State's only contracted rental car company. Reservations can be made online. When using a rental car:
 - Do not use for personal business.
 - Do not purchase insurance; it is already included in state rates.
 - Refuel the car before returning it. Fuel is reimbursable, however, the State will not reimburse for fuel service options or fuel provided by Enterprise.
 - The maximum reimbursement is \$40 per day for an economy car.
 - A final rental agreement showing amount charged and payment method are required for reimbursement.
 - Private Vehicle: Reimbursement is \$.50 per mile.
- Lodging: Maximum reimbursement for lodging in most California counties is \$84 plus tax per night. Higher rates are available in certain counties.
- All receipts provided for reimbursement must be original and show payment method.
- A cost comparison is required when electing to travel in a private vehicle in lieu of commercial air.

Mr. Ng introduced Barbara Coleman, the CBA's Personnel Analyst, who will process all travel expense claims. Ms. Corrigan encouraged members to submit their travel expense claims in a timely manner.

Members were provided with a copy of the DCA Travel Guide and Pocket Travel Guide.

IV. Role of the PROC.

Rafael Ixta gave an overview of the 2008 memorandum that outlined the roles and responsibilities of the PROC, acknowledging that they are conceptual and will begin to take shape at future meetings.

Mr. Ixta indicated that since CalCPA is the administering entity for AICPA, which is currently the only Board-recognized peer review program provider, he will refer to CalCPA when referring to the PROC's oversight responsibilities. If additional peer review program providers are approved, the PROC will have the same oversight responsibilities with respect to those programs. Mr. Ixta added that the PROC has specific responsibility to develop the evaluation criteria and procedures for recommending approving other peer review programs to the CBA.

Ms. Corrigan pointed out that the CBA's report to the Legislature is due January 1, 2013. The work of the PROC will assist the CBA in gathering information to assess the program and make recommendations regarding the continuation of the program. Mr. Ixta added that the report to the Legislature must include the impact of peer review on small businesses, small firms and non-profit organizations. To collect this information, licensees will be asked to complete a voluntary, confidential survey upon submission of their online peer review reporting form. Mr. Ixta welcomed ideas from the PROC, AICPA and CalCPA on additional ways of collecting information for the report.

Ms. Bowers pointed out that since peer review is a brand new program, the CBA will look to the PROC for the expertise of its members to help assist and guide the CBA in providing the oversight of the program. She added that staff will come prepared to each meeting with research and documentation needed to provide recommendations, but the PROC will be shaping and establishing the oversight functions.

Mr. Ixta informed members that three proposed regulatory packages, including the regulations making peer review permanent, have been submitted to the Office of Administrative Law. It is expected that the regulations will be approved by the end of December. At its next meeting, the CBA will consider proposed regulations dealing with peer review provider reporting requirements for failed peer reviews.

V. Overview of the CBA's Peer Review Program.

April Freeman provided an overview on the CBA's role in mandatory peer review. Members were provided with a brief summary of prior CBA and Task Forces' considerations and recommendations for mandatory peer review implementation, in addition to the current regulatory requirements. Ms. Freeman explained which licensees were required to undergo peer review and how they report to the CBA. Information about the impact on the CBA and outreach efforts was also provided.

VI. Overview of the Board-Recognized Peer Review Program.

Linda McCrone and Jim Brackens gave an overview of the peer review process. Their presentation covered enrollment in the program, establishing a review year, scheduling a review, selecting an appropriate peer reviewer/team, peer reviewer qualifications, requests for extension, how engagement and system reviews are performed and rated, cost, and program oversight.

In response to members' questions, Ms. McCrone and Mr. Brackens explained that firms that fail to cooperate with the peer review process can be expelled from the program. They also discussed the Facilitated State Board Access (FSBA) Web site which allows selected CBA staff to view specific firms' peer review results and documents.

Mr. Brackens advised members that confidentiality statements must be signed by each member prior to them participating in any meetings at which specific peer review reports are discussed. Staff will work with DCA Legal Counsel to resolve this issue.

VII. Discussion of Implementation Activities.

Ms. Corrigan acknowledged that the first meeting was meant to orient members with duties and expectations of the PROC. She stated that members need to review the oversight checklists received from Texas, Mississippi, and the AICPA Peer Review Oversight Handbook, and be prepared to provide input at the January 2011 meeting. CBA staff was directed to make preliminary modifications to the checklists to meet California's needs.

At the January 2011 meeting, the PROC will make plans for members to participate in CalCPA Report Acceptance Body (RAB) meetings and conduct the annual administrative site visit of CalCPA Peer Review Program.

The PROC will also need to address if the roles and responsibilities adopted by the CBA are appropriate. CBA staff will provide a list of roles and responsibilities as outlined in statute and regulation.

VIII. AICPA Peer Review Exposure Draft, June 1, 2010.

Paul Fisher informed the PROC that the AICPA Peer Review Exposure Draft was presented at the September 22, 2010 CBA meeting. The CBA directed the PROC to prepare comments on the Exposure Draft. Although the deadline was August 31, 2010, AICPA will still accept comments.

Ms. Bowers stated that all aspects of peer review are important in California and reiterated the standard CBA process is to assign tasks to committees. No due date was given.

Mr. Brackens said that if the comments were not ready for AICPA's January 2011 Peer Review Committee meeting, the next meeting would be in May and the AICPA is still interested in receiving comments from California.

Ms. Corrigan asked for volunteers to review the Exposure Draft and prepare comments for the approval at the PROC meeting in January. T. Ki Lam and Robert Lee volunteered.

IX. Future Agenda Items and Meeting Dates.

Future agenda items include:

- PROC Roles and Responsibilities
- Oversight Checklists and Forms
- Comments on AICPA Peer Review Exposure Draft
- AICPA and CalCPA Meeting Dates

The PROC discussed having its next meeting on Thursday, January 27, 2011, in conjunction with the CBA meeting. A location for the CBA meeting has not yet been determined. If scheduling conflicts prohibit the PROC from meeting on January 27th, the alternative date is Thursday, January 20, 2011.

It was motioned by Sherry McCoy, seconded by Gary Bong and unanimously carried by those present to set the next PROC meeting for Thursday, January 27, 2011, with an alternative date of Thursday, January 20, 2011.

X. Public Comment.

No comments were received.

XI. Adjournment.

There being no further business, the meeting was adjourned at 4:10 p.m.

Nancy Corrigan, Chair

April Freeman, Peer Review Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-1720.

Memorandum

CBA Agenda Item XIV.B.2.
January 27-28, 2011

To : CBA Members

Date : January 4, 2010

Telephone: (916) 561-1792

Facsimile : (916) 263-3675

E-mail : mstanley@cba.ca.gov

From : Matthew Stanley
Legislation/Regulation Analyst

Subject : Discussion of Exposure Draft Regarding UAA Section 3 and UAA Rules Article 14

In 1984, the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) published the first joint model bill on the regulation of public accountancy. It would come to be called the Uniform Accountancy Act (UAA). According to the AICPA, the UAA is a model licensing law developed to provide a uniform approach to regulation of the accounting profession which, in general, promotes key concepts aimed at mobility and easing reciprocity, while strengthening public protection.

The UAA itself is analogous to a state's codes on the accounting profession. In California, this would be the Accountancy Act in the Business and Professions Code (B&P). The accompanying UAA Model Rules are analogous to a state's regulations such as the California Board of Accountancy (CBA) Regulations.

This model law and its accompanying rules are continually evolving as amendments are made to them on a regular basis. These amendments are presented to the public as Exposure Drafts. During the Exposure Draft phase, the public, state boards, and the profession can comment on the proposed changes.

The Exposure Draft (**Attachment 1**) before the CBA now relates to the issue of firm names. Specifically, this Exposure Draft would add a definition of "Network" and "Network Firm" to Section 3 (**Attachment 2**) of the UAA. It would also amend UAA Rule 14-1 to provide specific criteria on which firm names are misleading and what is considered permissible. And finally, commentary is being added to Rule 14-1 to clarify that firm names are an important consideration when viewed in the context of interstate mobility. In developing this Exposure Draft, the AICPA and NASBA considered a White Paper on CPA Firm Names (**Attachment 3**) published in August of 2009 and the AICPA's Professional Ethics Executive Committee's Interpretation 101-17 (**Attachment 4**) regarding "Networks and Network Firms." Staff will take any comments on this Exposure Draft that the CBA may wish to make and communicate them to NASBA and the AICPA.

Discussion of Exposure Draft Regarding UAA Section 3 and UAA Rules Article 14

Page 2 of 3

California law and the CBA's regulations (**Attachment 5**) are relatively silent on the issue of firm names. Business and Professions Code §5060 is the most explicit stating that false and misleading names are not allowed and giving the CBA the authority to define what that means in regulation. Section 5073 delineates firm ownership requirements to use the terms CPA or CPAs in the firm name. And Section 67 of the CBA Regulations states that fictitious names must be registered with the CBA.

In the past, the CBA Licensing Division approved or disapproved firm names based on whether it thought the name was misleading. However, it was determined, in conjunction with DCA Legal Counsel, that, due to the lack of clarity in the law, this process could be viewed as an underground regulation. Since that time, the Licensing Division has approved all name requests, and any complaints regarding names have been referred to Enforcement for investigation.

In the last three years, the Enforcement Division has investigated 216 instances involving firm names; however, only 26 of those were due to consumer complaints. The remainder were a result of proactive staff investigations. The vast majority of these were resolved through cease and desist compliance with only four cite and fines, and five resulting in disciplinary action stemming from other violations.

Staff have reviewed the Exposure Draft and would like to point out a few areas that may be of concern to the CBA. The first potential concern is some vague terminology that is used in a few places. These terms should be further defined or every state board will interpret them in differing ways. For instance, Section 3(n)(2)(d) and (e) use terms like "ongoing collaboration" and "significant part."

The second potential concern involves the proposed UAA Rules 14-1(a)(1)(C) which would prohibit the title "CPAs" in a firm name if an individual, whose name is a part of that firm name, is not a licensed CPA. B&P §5079 states, in part, that public accountancy firms in California are allowed to have non-licensee owners. However, nothing in this section either prohibits or specifically allows the use of a non-licensee owner's name from being a part of the firm's name. It is possible, but unknown at this time, if there are firms licensed by the CBA that would be in violation of the proposed UAA Rule should it be adopted in California.

The final potential concern involves the direct correlation between this Exposure Draft and the issue of mobility. There is, at the end of the UAA Rule 14-1 proposal, a Comment. Comments of this type are allowed in the UAA, but there is no equivalent in California regulations. This Comment indicates that the purpose of encouraging uniform definitions for acceptable firm names is mobility. The Comment specifically says that, "it is the policy of this state to promote interstate mobility." This comment may or may not be objectionable to some CBA Members.

Discussion of Exposure Draft Regarding UAA Section 3 and UAA Rules Article 14

Page 3 of 3

At this time, staff is seeking any comments the CBA may wish to make regarding this Exposure Draft. The deadline for comments to be submitted is March 4, 2011. Staff will assemble any CBA comments into a letter that will be submitted by the required deadline. Staff request that the CBA delegate final approval of such a letter to the CBA President.

Further, staff are seeking guidance on further actions the CBA may wish to pursue regarding these changes. If the CBA feels that these, or some of these, proposals are worth incorporating into California law, staff believe that the changes would not need to be made in the B&P Code, but could be accomplished through regulation. At the CBA's direction, staff could prepare regulatory language and bring it before the CPC at a future meeting.

Attachments

EXPOSURE DRAFT

PROPOSED REVISIONS TO

AICPA/NASBA UNIFORM ACCOUNTANCY ACT and NASBA UNIFORM ACCOUNTANCY ACT RULES

SECTION 3 and Article 14

December 2010

2009 – 2010 AICPA UAA Committee

Kevin Currier, CPA – Chair
Gary Bolinger
Conrad Davis, CPA
Sharon Jensen, CPA
Richard Jones, CPA
Stephen McConnel, CPA
Kevin McCoy, CPA
Gary McIntosh, CPA
Kevin Mitchell, CPA
W.G. Spoor, CPA
Melanie Thompson, CPA
Nancy Wolven-Juron, CPA

2009-2010 NASBA UAA Committee

Laurie Tish, CPA - Chair
Sharron Cirillo, PA
Donald Driftmier, CPA
Andrew DuBoff, CPA
J. Dwight Hadley, CPA
Robert Hyde, CPA
Thomas Mulligan, CPA
Ronald Nielsen, CPA
Robert Pearson, CPA
Lisa Mays Stickel, CPA
James F. Thielen, CPA

Please submit comments by March 4, 2011 to:

Aaron Castelo – acastelo@aicpa.org
or
Louise Dratler Haberman – lhberman@nasba.org

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INTRODUCTION

December 7, 2010

The AICPA/NASBA Uniform Accountancy Act (UAA) Committee has worked over the past year to consider guidelines as to what are and what are not misleading CPA firm names. The proposed changes to the Uniform Accountancy Act (UAA) and Uniform Accountancy Act Model Rules (Model Rules) in this exposure draft are the result of these efforts.

AICPA and NASBA began considering these firm name issues in August 2008 when the leadership of the two organizations called for the formation of a joint group to study CPA firm names. This study group was formed because of the lack of uniformity at the state level and the inconsistent guidance and practice surrounding the definition and use of permissible CPA firm names. The study group published a White Paper on CPA Firm Names in August 2009. In the conclusion, the White Paper urged the AICPA/NASBA UAA Committee to use the discussion and conclusions to help make appropriate conforming revisions to the UAA Statute and Model Rules.

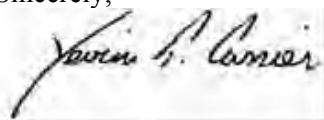
During deliberations, the UAA Committee sought guidance from AICPA's Professional Ethics Executive Committee (PEEC), and carefully considered definitions and concepts from PEEC's Interpretation 101-17 under Rule 101. This Interpretation was finalized in 2010 by the Professional Ethics Executive Committee and is effective for engagements after July 1, 2011. The Interpretation addresses when firms and entities in associations that share certain characteristics are considered to be a Network and therefore must be independent of certain attest clients of the other Network firms. Additionally, the UAA Committee also considered concepts in the AICPA Code of Professional Conduct Rule 505 "Form of Organization and Name," and PEEC's Ethics Ruling 179 "Practice of Public Accounting Under Name of Association or Group."

The discussion and conclusions noted in the White Paper on CPA Firm Names and the PEEC's Interpretations and Rules form the foundation of the proposed revisions to the UAA and the Model Rules. These proposed revisions are intended to provide the statutory and regulatory framework to CPA Firms and the State Boards of Accountancy who regulate them on acceptable CPA firm names configurations, Network or otherwise, and to provide public protections from CPA firm names which may be considered misleading.

If you need additional assistance or have questions, please contact Aaron Castelo at AICPA at 202-434-9261 or Louise Haberman at NASBA at 212-644-6469.

Thank you for your continued support and assistance.

Sincerely,



Kevin E. Currier, CPA
AICPA UAA Committee Chair -2010



Laurie J. Tish, CPA
NASBA UAA Committee Chair - 2010

SUMMARY OF PROPOSED REVISIONS

The proposed changes add a definition of “Network” and “Network Firm” to the Uniform Accountancy Act.

A new Rule 14-1 is being proposed to provide guidance to State Boards and firms on CPA Firm names. The new rule provides specific criteria on which names should be considered misleading and which are permissible, and sets guidelines for the usage of Network Firm names.

New language is being recommended to the commentary of Rule 14-1 of the Uniform Accountancy Act Model Rules to recognize implications to mobility when considering CPA Firm names.

TEXT OF PROPOSED STATUTE REVISIONS BY SECTION

Note: The material set out below is the proposed statutory text and commentary of the relevant UAA provisions. The proposed language to be added is underlined, and proposed deleted language is stricken-through.

SECTION 3 DEFINITIONS

3 (n) “Network” means an association of two or more entities that includes at least one CPA firm that:

- (1) Cooperates pursuant to an agreement for the purpose of enhancing the firms’ capabilities to provide professional services, and;**
- (2) Shares one or more of the following characteristics:**
 - (a) The use of a common brand name, including common initials, as part of the firm name;**
 - (b) Common control, as defined by generally accepted accounting principles in the United States, among the firms through ownership, management, or other means;**
 - (c) Profits or costs, excluding costs of operating the association, costs of developing audit methodologies, manuals and training courses, and other costs that are immaterial to the firm;**
 - (d) Common business strategy that involves ongoing collaboration amongst the firms whereby the firms are responsible for implementing the association’s strategy and are held accountable for performance pursuant to that strategy;**
 - (e) Significant part of professional resources;**
 - (f) Common quality control policies and procedures that participating firms are required to implement and that are monitored by the association.**

A Network may comprise a subset of entities within an association if only that subset of entities cooperates and shares one or more of the characteristics set forth in the previous list.

3 (o) “Network Firm” means a CPA Firm, as defined in Section 3 (g), that is part of a Network, as defined in Section 3(n).

COMMENT: For the purposes of subsection (2)(f), “monitored” means the process comprising an ongoing consideration and evaluation of the firm’s system of quality control, the objective of which is to enable the association to obtain reasonable assurance that the firm’s system of quality control is designed appropriately and operating effectively.

TEXT OF PROPOSED RULES REVISIONS BY ARTICLE

Note: The material set out below is the proposed rules text and commentary of the relevant UAA provisions. The proposed language to be added is underlined, and proposed deleted language is stricken-through.

ARTICLE 14 UNLAWFUL ACTS

Rule 14-1 - ~~Misleading~~ CPA Firm names.

~~A CPA firm name is misleading within the meaning of Section 14(i) of the Act if, among other things:~~

- ~~(a) The CPA firm name implies the existence of a corporation when the firm is not a corporation;~~
- ~~(b) The CPA firm name implies existence of a partnership when there is not a partnership (as in “Smith & Jones, C.P.A.s”);~~
- ~~(c) The CPA firm name includes the name of a person who is neither a present nor a past partner, member or shareholder of the firm; or~~
- ~~(d) The CPA firm name includes the name of a person who is not a CPA if the title “CPAs” is included in the firm name.~~

(a) A misleading CPA Firm name is one which:

- (1) Contains any representation that would be likely to cause a reasonable person to misunderstand or be confused about the legal form of the firm, or about who are the owners or members of the firm, such as a reference to a type of organization or an abbreviation thereof which does not accurately reflect the form under which the firm is organized, for example:

- (A) Implies the existence of a corporation when the firm is not a corporation such as through the use of the words “corporation,”

“incorporated”, “Ltd.”, “professional corporation”, or an abbreviation thereof as part of the firm name if the firm is not incorporated or is not a professional corporation;

(B) Implies the existence of a partnership when there is not a partnership such as by use of the term “partnership” or “limited liability partnership” or the abbreviation “L.L.P.” if the firm is not such an entity;

(C) Includes the name of an individual who is not a CPA if the title “CPAs” is included in the firm name;

(D) Includes information about or indicates an association with persons who are not members of the firm, except as permitted pursuant to Section 3(n) and 3(o) of the Act; or

(E) Includes the terms “& Company,” “& Associate,” or “Group,” but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee.

(2) Contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matter;

(3) Claims or implies the ability to influence a regulatory body or official;

(4) Includes the name of an owner whose license has been revoked for disciplinary reasons by the Board, whereby the licensee has been prohibited from practicing public accountancy or prohibited from using the title CPA or holding himself out as a Certified Public Accountant.

(b) The following types of CPA Firm names are not in and of themselves misleading and are permissible so long as they do not violate the provisions of Rule 14-1(a):

(1) A firm name that includes the names of one or more former or

present owners;

(2) A firm name that excludes the names of one or more former or present owners;

(3) A firm name that uses the CPA title as part of the firm name when all named individuals are owners of the firm who hold such title or are former owners who held such title at the time they ceased to be owners of the firm;

(4) A firm name that includes the name of a non-CPA owner if the CPA title is not a part of the firm name;

(c) The following types of Network Firm names are not in and of themselves misleading and are permissible so long as they do not violate the provisions of Rule 14-1(a), and when offering or rendering services that require independence under AICPA standards, a firm that is part of a Network and a Network Firm, as defined in Section 3(o) of the Act, shall be required to comply with AICPA independence standards applicable to Network Firms:

(1) A firm name that uses a common brand name, or shares common initials, as part of the firm name, provided the firm is a Network Firm as defined in Section 3(o) of the Act;

(2) A Network Firm, as defined in Section 3(o) of the Act, may use the Network name as the firm name, provided it also shares one or more of the characteristics described in Section 3(n)(2) (b) through 3(n)(2)(f) of the Act.

COMMENT: With regard to practice in this State under Section 7(a)(1)(c), 7(a)(2) or 7(a)(3) of the Act, in determining whether a CPA Firm name is misleading, the Board recognizes that it is the policy of this State to promote interstate mobility for CPAs and CPA firms which employ them, and shall also consider the basis for approval of the same CPA Firm name by another state's board of accountancy.

~~Rule 14-2--Fictitious firm names.~~

~~A fictitious CPA firm name (that is, one not consisting of the names or initials of one or more present or former partners, members or shareholders) may not be used by a CPA firm unless such name has been registered with and approved by the Board as not being false or misleading.~~

Note: Current UAA Rules 14-3 Safe Harbor Language will be re-numbered to Rule 14-2.

Memorandum

CBA Agenda Item XV.E
January 27-28 2011

To : CBA Members

Date: January 13, 2011

Telephone : (916) 561- 1789
Facsimile : (916) 263- 3675
E-mail : lhersh@cba.ca.gov

From : Lauren Hersh
Information & Planning Manager

Subject : Press Release Focus

Staff will provide suggestions for an appropriate focus for the press release to be issued following each CBA meeting. This is a dynamic analysis based on the activities of each CBA meeting; however an analysis of the agenda would indicate the likelihood that the post-meeting press release would involve information regarding CBA legislative initiatives for 2011.

Press Releases

Six press releases were issued since the November 2010 CBA meeting, including three enforcement actions sent to newspapers in the greater Los Angeles area and the Central Valley, the CBA's post meeting release focusing on the election of officers, the announcement unveiling CBA's Twitter and Facebook, and a preview of the January 2011 CBA meeting. **(Attachment 1)** These releases were distributed via Twitter in addition to E-News and the traditional distribution method to the press, and going forward, releases will also be posted on Facebook. The use of social media to augment distribution enables the CBA to get the information directly to followers and subscribers.

Staff is available to answer any questions CBA members may have regarding this update.



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NEWS RELEASE

FOR IMMEDIATE RELEASE
1-11-11

Contact: Lauren Hersh (916) 561-1789

CALIFORNIA BOARD OF ACCOUNTANCY NOW ON TWITTER AND FACEBOOK

Debut "just in time" for tax season

SACRAMENTO- The California Board of Accountancy (CBA) is now on Twitter, the social networking tool that allows followers to receive "tweets" - brief messages of interest. The CBA is tweeting accounting-related consumer information, tips for accounting students and faculty, as well as information and updates for its more than 85,000 licensees. The CBA also has a Facebook page, which includes links to helpful information and CBA tweets.

CBA Executive Officer Patti Bowers says the foray into social media especially makes sense at a time when information is so important and the state fiscal situation so challenging.

"We are always looking for new opportunities to reach consumers with information they need to help them make informed decisions, as well as new ways to reach licensees, exam and licensing candidates, accounting educators and students," said Bowers. "Making the most of social media increases our ability to reach people without increasing our costs."

Since the launch, the CBA has been reminding consumers what they need to ask for before hiring a CPA, informing new accounting students of upcoming educational requirements which will be required for California CPAs, and informing CPAs and the public of changes in accounting-related law and regulations before they become effective. With the beginning of “tax season,” many messages will focus on tax-related information.

The CBA Web site, www.cba.ca.gov features buttons which link to its Twitter page <http://twitter.com/CBAnews> and the CBA Facebook page <http://www.facebook.com/pages/California-Board-of-Accountancy/139337249423654>.

Created by statute in 1901, the CBA’s mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 85,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

More information about the California Board of Accountancy is available at www.cba.ca.gov

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NEWS RELEASE

FOR IMMEDIATE
RELEASE
11-24-10

Contact: Lauren Hersh (916) 561-1789

CALIFORNIA BOARD OF ACCOUNTANCY SELECTS NEW LEADERSHIP

(Sacramento, CA) –The California Board of Accountancy (CBA) has elected its new leadership going forward into 2011.

Ms. Sarah (Sally) Anderson, CPA, of Newport Coast, CA, was unanimously elected to the office of CBA President at the CBA meeting in Irvine, CA November 18, 2010. Ms. Anderson most recently served as CBA Vice-President and previously as a member since her appointment to the CBA by Governor Arnold Schwarzenegger in 2007.

Mr. Marshal Oldman, Esq., of Westlake Village, CA was elected CBA Vice-President, and Ms. Leslie LaManna, of San Diego, CA was elected Secretary/Treasurer. Mr. Oldman has served on the CBA since 2006 and Ms. LaManna, since 2004. Both Mr. Oldman and Ms. LaManna were elected by unanimous vote.

Officers serve a one year term, effective the date of their election. The CBA is scheduled to meet next on January 27-28, 2011, in Southern California.

Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and

disciplinary functions. The CBA currently regulates more than 85,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

More information about the California Board of Accountancy is available at www.cba.ca.gov, where you can also sign up to receive timely updates via CBA's E-News. You can also follow us on Twitter at <http://Twitter.com/CBANews>

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PRESS ADVISORY

FOR IMMEDIATE RELEASE
1-18-11

Contact: Lauren Hersh (916) 561-1789

CALIFORNIA BOARD OF ACCOUNTANCY TO MEET IN IRVINE; WILL LOOK AT MOBILITY ISSUE

(Sacramento, CA) –The California Board of Accountancy (CBA) will take a look at the issue of mobility, cross-border practice and a national database designed to validate the licensing status of CPAs throughout the country, when it meets **Thursday, January 27, 2011, 1:00 p.m. – 5:00 p.m. and Friday, January 28, 2011, 9:00 a.m. – 4:30 p.m. at the Crowne Plaza Irvine, 17941 Von Karman Avenue, Irvine, CA 92614.**

This is a public meeting and members of the press are welcome to attend.

Mobility and cross-border practice refer to the ability of California-licensed CPAs to practice public accountancy in states where they do not hold a license. The CBA will hear an educational presentation by the National Association of State Boards of Accountancy (NASBA) on its concept of mobility and other states' practice, as well as a presentation on the Accountancy Licensee Database (ALD). According to NASBA, the ALD was designed to ease the barriers to interstate practice.

CBA meetings may be viewed live on the CBA Web site at www.cba.ca.gov. Updates are also available via Twitter at <http://twitter.com/CBAnews> and on Facebook at <http://www.facebook.com/pages/California-Board-of-Accountancy/139337249423654>.

A copy of the full January 27-28 CBA meeting agenda is available online at: <http://www.dca.ca.gov/cba/meetings/materials/2011/mat0111cba.pdf>